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**SENATE BILL NO. 1368****FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by Senator Saslaw  
on February 5, 2001)

(Patron Prior to Substitute—Senator Saslaw)

*A BILL to amend and reenact §§ 58.1-603, 58.1-604, 58.1-611.1, 58.1-614, 58.1-627, 58.1-628, and 58.1-638 of the Code of Virginia, relating to an additional one percent state sales and use tax in certain localities and dedicating one-half of the revenues from such additional tax to educational projects in such localities and distributing the remaining one-half of such revenues to a regional transportation authority for such localities first created during either the 2001 or 2002 Session of the General Assembly; and authorizing the issuance of bonds by such authority in the principal amount of \$2,250,000,000 for transportation projects in the Northern Virginia Regional Transportation Program.*

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

**1. That §§ 58.1-603, 58.1-604, 58.1-611.1, 58.1-614, 58.1-627, 58.1-628, and 58.1-638 of the Code of Virginia are amended and reenacted as follows:**

**§ 58.1-603. Imposition of sales tax.**

A. There is hereby levied and imposed, in addition to all other taxes and fees of every kind now imposed by law, a license or privilege tax upon every person who engages in the business of selling at retail or distributing tangible personal property in this Commonwealth, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this Commonwealth any item or article of tangible personal property as defined in this chapter, or who leases or rents such property within this Commonwealth, in the amount of three and one-half percent:

1. Of the gross sales price of each item or article of tangible personal property when sold at retail or distributed in this Commonwealth.

2. Of the gross proceeds derived from the lease or rental of tangible personal property, where the lease or rental of such property is an established business, or part of an established business, or the same is incidental or germane to such business.

3. Of the cost price of each item or article of tangible personal property stored in this Commonwealth for use or consumption in this Commonwealth.

4. Of the gross proceeds derived from the sale or charges for rooms, lodgings or accommodations furnished to transients as set out in the definition of "retail sale" in § 58.1-602.

5. Of the gross sales of any services which are expressly stated as taxable within this chapter.

*B. In addition to the tax imposed under subsection A, an additional sales tax of one percent is hereby levied and imposed in: all counties having a population of more than 800,000, as determined by the 1990 U.S. Census, all counties and cities adjacent thereto, and all cities contiguous to such adjacent counties and cities.*

**§ 58.1-604. Imposition of use tax.**

A. There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount of three and one-half percent:

1. Of the cost price of each item or article of tangible personal property used or consumed in this Commonwealth. Tangible personal property which has been acquired for use outside this Commonwealth and subsequently becomes subject to the tax imposed hereunder shall be taxed on the basis of its cost price if such property is brought within this Commonwealth for use within six months of its acquisition; but if so brought within this Commonwealth six months or more after its acquisition, such property shall be taxed on the basis of the current market value (but not in excess of its cost price) of such property at the time of its first use within this Commonwealth. Such tax shall be based on such proportion of the cost price or current market value as the duration of time of use within this Commonwealth bears to the total useful life of such property (but it shall be presumed in all cases that such property will remain within this Commonwealth for the remainder of its useful life unless convincing evidence is provided to the contrary).

2. Of the cost price of each item or article of tangible personal property stored outside this Commonwealth for use or consumption in this Commonwealth.

3. A transaction taxed under § 58.1-603 shall not also be taxed under this section, nor shall the same transaction be taxed more than once under either section.

4. The use tax shall not apply with respect to the use of any article of tangible personal property brought into this Commonwealth by a nonresident individual, visiting in Virginia, for his personal use,

60 while within this Commonwealth.

61 5. The use tax shall not apply to out-of-state mail order catalog purchases totaling \$100 or less  
62 during any calendar year.

63 *B. In addition to the tax imposed under subsection A, an additional use tax of one percent is hereby*  
64 *levied and imposed in: all counties having a population of more than 800,000, as determined by the*  
65 *1990 U.S. Census, all counties and cities adjacent thereto, and all cities contiguous to such adjacent*  
66 *counties and cities.*

67 § 58.1-611.1. Rate of tax on sales of food purchased for human consumption; Food Tax Reduction  
68 Program.

69 A. Subject to the conditions of subsections D and E, the tax imposed by §§ *subsection A of 58.1-603*  
70 *and subsection A of 58.1-604* on food purchased for human consumption shall be levied and distributed  
71 as follows:

72 1. From January 1, 2000, through March 31, 2001, the tax rate on such food shall be three percent  
73 of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from  
74 the tax at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638, (ii)  
75 the revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C  
76 and D of § 58.1-638, and (iii) the revenue from the tax at the rate of one and one-half percent shall be  
77 used for general fund purposes.

78 2. From April 1, 2001, through March 31, 2002, the tax rate on such food shall be two and one-half  
79 percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue  
80 from the tax at the rate of one-half percent shall be distributed as provided in subsection A of  
81 § 58.1-638, (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in  
82 subsections B, C and D of § 58.1-638, and (iii) the revenue from the tax at the rate of one percent shall  
83 be used for general fund purposes.

84 3. From April 1, 2002, through March 31, 2003, the tax rate on such food shall be two percent of  
85 the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the  
86 tax at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638, (ii) the  
87 revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C and  
88 D of § 58.1-638, and (iii) the revenue from the tax at the rate of one-half percent shall be used for  
89 general fund purposes.

90 4. On and after April 1, 2003, the tax rate on such food shall be one and one-half percent of the  
91 gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax  
92 at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638 and (ii) the  
93 revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C and  
94 D of § 58.1-638.

95 B. The provisions of this section shall not affect the imposition of tax on food purchased for human  
96 consumption pursuant to §§ 58.1-605 and 58.1-606.

97 C. As used in this section, "food purchased for human consumption" has the same meaning as "food"  
98 defined in the Food Stamp Act of 1977, 7 U.S.C. § 1012, as amended, and federal regulations adopted  
99 pursuant to that Act, except it shall not include seeds and plants which produce food for human  
100 consumption.

101 D. Notwithstanding the tax rates set forth in subsection A, the rate of tax on sales of food purchased  
102 for human consumption for any twelve-month period beginning on or after April 1, 2001, shall not be  
103 reduced below the rate then in effect for the Commonwealth's current fiscal year if:

104 1. Actual general fund revenues for the fiscal year preceding a fiscal year in which a rate reduction  
105 is contemplated in subsection A do not exceed the official general fund revenue estimates for such  
106 preceding fiscal year, as estimated in the most recently enacted and approved general appropriation act,  
107 by at least one percent; or

108 2. Any of the events listed in subsection C of § 58.1-3524 or subsection B of § 58.1-3536 have  
109 occurred during the then current fiscal year.

110 E. If the tax rate on food purchased for human consumption remains the same for the period January  
111 1, 2000, through March 31, 2001, and the subsequent twelve-month period beginning on April 1, 2001,  
112 or with respect to any consecutive twelve-month periods beginning on and after April 1, 2001, the tax  
113 rate on such food shall remain the same unless none of the conditions described in subsection D have  
114 occurred, in which event the tax rate on food purchased for human consumption for the immediately  
115 following twelve-month period shall be equal to the next lowest tax rate listed in subsection A.

116 F. There is hereby created on the books of the Comptroller a nonreverting fund entitled the Food  
117 Tax Reserve Fund which shall be used solely for the statutory purposes of the Food Tax Reduction  
118 Program as established by this section, and as may be provided for in the general appropriation act. For  
119 the purpose of the Comptroller's preliminary and final annual reports required by § 2.1-207, all balances  
120 remaining in the Fund on June 30 of each year shall be considered a portion of the fund balance of the  
121 general fund of the state treasury.

G. The tax imposed by subsection B of § 58.1-603 and by subsection B of § 58.1-604 shall not apply to food purchased for human consumption.

§ 58.1-614. Vending machine sales.

A. Notwithstanding the provisions of §§ 58.1-603 and 58.1-604, whenever a dealer makes sales of tangible personal property through vending machines, or in any other manner making collection of the tax impractical, as determined by the Tax Commissioner, such dealer shall be required to report his wholesale purchases for sale at retail from vending machines and shall be required to remit an amount based on four and one-half percent of such wholesale purchases, *except that such wholesale purchases shall be taxed at a rate of five and one-half percent by the localities set forth in subsection B of § 58.1-603.*

B. Notwithstanding the provisions of §§ 58.1-605 and 58.1-606, dealers making sales of tangible personal property through vending machines shall report and remit the one percent local sales and use tax computed as provided in subsection A of this section.

C. The provisions of subsections A and B of this section shall not be applicable to vending machine operators all of whose machines are under contract to nonprofit organizations. Such operators shall report only the gross receipts from machines selling items for more than ten cents and shall be required to remit an amount based on a percentage of their remaining gross sales established by the Tax Commissioner to take into account the inclusion of sales tax.

D. Notwithstanding any other provisions in this section or § 58.1-628, when the Tax Commissioner determines that it is impractical to collect the tax in the manner provided by those sections, such dealer shall be required to remit an amount based on a percentage of gross receipts which takes into account the inclusion of the sales tax.

E. The provisions of this section shall not be applicable to any dealer who fails to maintain records satisfactory to the Tax Commissioner. A dealer making sales of tangible personal property through vending machines shall obtain a certificate of registration under § 58.1-613 in relevant form for each county or city in which he has machines.

§ 58.1-627. Bracket system for tax at rate of three and one-half percent.

The following brackets of prices shall be used for the collection of the tax imposed by this chapter, *except for such tax imposed in those localities listed in subsection B of § 58.1-603:*

\$0.00	to	\$0.14	no tax
.15	to	.42	1¢ tax
.43	to	.71	2¢ tax
.72	to	.99	3¢ tax
1.00	to	1.28	4¢ tax
1.29	to	1.57	5¢ tax
1.58	to	1.85	6¢ tax
1.86	to	2.14	7¢ tax
2.15	to	2.42	8¢ tax
2.43	to	2.71	9¢ tax
2.72	to	2.99	10¢ tax
3.00	to	3.28	11¢ tax
3.29	to	3.57	12¢ tax
3.58	to	3.85	13¢ tax
3.86	to	4.14	14¢ tax
4.15	to	4.42	15¢ tax
4.43	to	4.71	16¢ tax
4.72	to	5.00	17¢ tax

*Except in the localities set forth in subsection B of § 58.1-603, ~~On~~ on transactions ~~over~~ greater than five dollars, the tax shall be computed at three and one-half percent, one-half cent or more being treated as one cent. In the localities set forth in subsection B of § 58.1-603, on transactions greater than five dollars, the tax shall be computed at four and one-half percent, one-half cent or more being treated as one cent.* If a dealer can show to the satisfaction of the Tax Commissioner that more than eighty-five percent of the total dollar volume of his gross taxable sales during the taxable month was from individual sales at prices of ten cents or less each, and that he was unable to adjust his prices in such manner as to prevent the economic incidence of the sales tax from falling on him, the Tax Commissioner shall determine the proper tax liability of the dealer based on that portion of the dealer's gross taxable sales which was from sales at prices of eleven cents or more.

§ 58.1-628. Bracket system for combined state and local tax.

The following brackets of prices shall be used for the collection of the combined state and local tax,

182 *except for such tax imposed in those localities listed in subsection B of § 58.1-603:*

183	\$0.00	to	\$0.11	no	tax
184	.12	to	.33	1¢	tax
185	.34	to	.55	2¢	tax
186	.56	to	.77	3¢	tax
187	.78	to	.99	4¢	tax
188	1.00	to	1.22	5¢	tax
189	1.23	to	1.44	6¢	tax
190	1.45	to	1.66	7¢	tax
191	1.67	to	1.88	8¢	tax
192	1.89	to	2.11	9¢	tax
193	2.12	to	2.33	10¢	tax
194	2.34	to	2.55	11¢	tax
195	2.56	to	2.77	12¢	tax
196	2.78	to	2.99	13¢	tax
197	3.00	to	3.22	14¢	tax
198	3.23	to	3.44	15¢	tax
199	3.45	to	3.66	16¢	tax
200	3.67	to	3.88	17¢	tax
201	3.89	to	4.11	18¢	tax
202	4.12	to	4.33	19¢	tax
203	4.34	to	4.55	20¢	tax
204	4.56	to	4.77	21¢	tax
205	4.78	to	5.00	22¢	tax

206  
 207 *Except in the localities set forth in subsection B of § 58.1-603, On* on transactions ~~over~~ greater than  
 208 five dollars, the tax shall be computed at four and one-half percent, one half cent or more being treated  
 209 as one cent. *In the localities set forth in subsection B of § 58.1-603, on transactions greater than five*  
 210 *dollars, the tax shall be computed at five and one-half percent, one half cent or more being treated as*  
 211 *one cent.* The foregoing bracket system shall not relieve the dealer from the duty and liability to remit  
 212 an amount equal to four and one-half percent of his gross taxable sales as provided in this chapter. If  
 213 the dealer, however, can show to the satisfaction of the Tax Commissioner that more than eighty-five  
 214 percent of the total dollar volume of his gross taxable sales during the taxable month was from  
 215 individual sales at prices of ten cents or less each and that he was unable to adjust his prices in such  
 216 manner as to prevent the economic incidence of the sales tax from falling on him, the Tax  
 217 Commissioner shall determine the proper tax liability of the dealer based on that portion of the dealer's  
 218 gross taxable sales which was from sales at prices of eleven cents or more.

219 § 58.1-638. Disposition of state sales and use tax revenue; Transportation Trust Fund; localities'  
 220 share; Game Protection Fund.

221 A. The Comptroller shall designate a specific revenue code number for all the state sales and use tax  
 222 revenue collected under the preceding sections of this chapter.

223 1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted  
 224 by the 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided  
 225 in this section, to the Transportation Trust Fund as defined in § 33.1-23.03:1. Of the funds paid to the  
 226 Transportation Trust Fund, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port  
 227 Fund as provided in this section; an aggregate of 2.4 percent shall be set aside as the Commonwealth  
 228 Airport Fund as provided in this section; and an aggregate of 14.5 percent in fiscal year 1998-1999 and  
 229 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass  
 230 Transit Fund as provided in this section. The Fund's share of such net revenue shall be computed as an  
 231 estimate of the net revenue to be received into the state treasury each month, and such estimated  
 232 payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall  
 233 be made to the Fund on the last day of each month.

234 2. There is hereby created in the Department of the Treasury a special nonreverting fund which shall  
 235 be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Port Fund.

236 a. The Commonwealth Port Fund shall be established on the books of the Comptroller and the funds  
 237 remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in  
 238 the Fund. Interest earned on such funds shall remain in the Fund and be credited to it. Funds may be  
 239 paid to any authority, locality or commission for the purposes hereinafter specified.

240 b. The amounts allocated pursuant to this section shall be allocated by the Commonwealth  
 241 Transportation Board to the Board of Commissioners of the Virginia Port Authority to be used to

support port capital needs and the preservation of existing capital needs of all ocean, river, or tributary ports within the Commonwealth.

c. Commonwealth Port Fund revenue shall be allocated by the Board of Commissioners to the Virginia Port Authority in order to foster and stimulate the flow of maritime commerce through the ports of Virginia, including but not limited to the ports of Richmond, Hopewell and Alexandria.

3. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be part of the Transportation Trust Fund and which shall be known as the Commonwealth Airport Fund. The Commonwealth Airport Fund shall be established on the books of the Comptroller and any funds remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the funds shall be credited to the Fund. The funds so allocated shall be allocated by the Commonwealth Transportation Board to the Virginia Aviation Board. The funds shall be allocated by the Virginia Aviation Board to any Virginia airport which is owned by the Commonwealth, a governmental subdivision thereof, or a private entity to which the public has access for the purposes enumerated in § 5.1-2.16, or is owned or leased by the Metropolitan Washington Airports Authority (MWAA), as follows:

Any new funds in excess of \$12.1 million which are available for allocation by the Virginia Aviation Board from the Commonwealth Transportation Fund, shall be allocated as follows: sixty percent to MWAA, up to a maximum annual amount of two million dollars, and forty percent to air carrier airports as provided in subdivision A 3 a. Except for adjustments due to changes in enplaned passengers, no air carrier airport sponsor, excluding MWAA, shall receive less funds identified under subdivision A 3 a than it received in fiscal year 1994-1995.

Of the remaining amount:

a. Forty percent of the funds shall be allocated to air carrier airports, except airports owned or leased by MWAA, based upon the percentage of enplanements for each airport to total enplanements at all air carrier airports, except airports owned or leased by MWAA. No air carrier airport sponsor, however, shall receive less than \$50,000 nor more than \$2 million per year from this provision.

b. Forty percent of the funds shall be allocated by the Aviation Board for air carrier and reliever airports on a discretionary basis, except airports owned or leased by MWAA.

c. Twenty percent of the funds shall be allocated by the Aviation Board for general aviation airports on a discretionary basis.

4. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Mass Transit Fund.

a. The Commonwealth Mass Transit Fund shall be established on the books of the Comptroller and any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall be credited to the Fund. Funds may be paid to any local governing body, transportation district commission, or public service corporation for the purposes hereinafter specified.

b. The amounts allocated pursuant to this section may be used to support a maximum of fifty percent of the public transportation administrative costs and up to eighty percent of the costs of ridesharing programs borne by the locality. These amounts may be used to support up to ninety-five percent of the local or nonfederal share of capital project costs for public transportation and ridesharing equipment, facilities, and associated costs. Capital costs may include debt service payments on local or agency transit bonds. Further, these amounts may be used to support a maximum of ninety-five percent of the costs borne by the locality for the purchase of fuels, lubricants, tires and maintenance parts and supplies for public transportation. The term "borne by the locality" means the local share eligible for state assistance consisting of costs in excess of the sum of fares and other operating revenues plus federal assistance received by the locality.

c. Commonwealth Mass Transit Fund revenue shall be allocated by the Commonwealth Transportation Board as follows:

(1) Funds for special programs, which shall include ridesharing, experimental transit, and technical assistance, shall not exceed 1.5 percent of the Fund.

(2) The Board may allocate these funds to any locality or planning district commission to finance up to eighty percent of the local share of all costs associated with the development, implementation, and continuation of ridesharing programs.

(3) Funds allocated for experimental transit projects may be paid to any local governing body, transportation district commission, or public corporation or may be used directly by the Department of Rail and Public Transportation for the following purposes:

(a) To finance up to ninety-five percent of the capital costs related to the development, implementation and promotion of experimental public transportation and ridesharing projects approved by the Board.

(b) To finance up to ninety-five percent of the operating costs of experimental mass transportation and ridesharing projects approved by the Board for a period of time not to exceed twelve months.

(c) To finance up to ninety-five percent of the cost of the development and implementation of any other project designated by the Board where the purpose of such project is to enhance the provision and use of public transportation services.

d. Funds allocated for public transportation promotion and operation studies may be paid to any local governing body, planning district commission, transportation district commission, or public transit corporation, or may be used directly by the Department of Rail and Public Transportation for the following purposes and aid of public transportation services:

(1) At the approval of the Board to finance a program administered by the Department of Rail and Public Transportation designed to promote the use of public transportation and ridesharing throughout Virginia.

(2) To finance up to fifty percent of the local share of public transportation operations planning and technical study projects approved by the Board.

e. At least 73.5 percent of the Fund shall be distributed to each transit property in the same proportion as its operating expenses bear to the total statewide operating expenses and shall be spent for the purposes specified in subdivision 4 b.

f. The remaining twenty-five percent shall be distributed for capital purposes on the basis of ninety-five percent of the nonfederal share for federal projects and ninety-five percent of the total costs for nonfederal projects. In the event that total capital funds available under this subdivision are insufficient to fund the complete list of eligible projects, the funds shall be distributed to each transit property in the same proportion that such capital expenditure bears to the statewide total of capital projects.

g. There is hereby created in the Department of the Treasury a special nonreverting fund known as the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be established on the books of the Comptroller and consist of such moneys as are appropriated to it by the General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given, bequeathed, granted, or otherwise made available to the Commonwealth Transit Capital Fund. Any funds remaining in the Commonwealth Transit Capital Fund at the end of the biennium shall not revert to the general fund, but shall remain in the Commonwealth Transit Capital Fund. Interest earned on funds within the Commonwealth Transit Capital Fund shall remain in and be credited to the Commonwealth Transit Capital Fund. Proceeds of the Commonwealth Transit Capital Fund may be paid to any political subdivision, another public entity created by an act of the General Assembly, or a private entity as defined in § 56-557 and for purposes as enumerated in subdivision 4c of § 33.1-269 or expended by the Department of Rail and Public Transportation for the purposes specified in this subdivision. Revenues of the Commonwealth Transit Capital Fund shall be used to support capital expenditures involving the establishment, improvement, or expansion of public transportation services through specific projects approved by the Commonwealth Transportation Board. Projects financed by the Commonwealth Transit Capital Fund shall receive local, regional or private funding for at least twenty percent of the nonfederal share of the total project cost.

5. Funds for Metro shall be paid by the Northern Virginia Transportation Commission (NVTC) to the Washington Metropolitan Area Transit Authority (WMATA) and be a credit to the Counties of Arlington and Fairfax and the Cities of Alexandria, Falls Church and Fairfax in the following manner:

a. Local obligations for debt service for WMATA rail transit bonds apportioned to each locality using WMATA's capital formula shall be paid first by NVTC. NVTC shall use ninety-five percent state aid for these payments.

b. The remaining funds shall be apportioned to reflect WMATA's allocation formulas by using the related WMATA-allocated subsidies and relative shares of local transit subsidies. Capital costs shall include twenty percent of annual local bus capital expenses. Hold harmless protections and obligations for NVTC's jurisdictions agreed to by NVTC on November 5, 1998, shall remain in effect.

Appropriations from the Commonwealth Mass Transit Fund are intended to provide a stable and reliable source of revenue as defined by Public Law 96-184.

B. The sales and use tax revenue generated by a one percent sales and use tax shall be distributed among the counties and cities of this Commonwealth in the manner provided in subsections C and D.

C. The localities' share of the net revenue distributable under this section among the counties and cities shall be apportioned by the Comptroller and distributed among them by warrants of the Comptroller drawn on the Treasurer of Virginia as soon as practicable after the close of each month during which the net revenue was received into the state treasury. The distribution of the localities' share of such net revenue shall be computed with respect to the net revenue received into the state treasury during each month, and such distribution shall be made as soon as practicable after the close of each such month.

D. The net revenue so distributable among the counties and cities shall be apportioned and distributed upon the basis as certified to the Comptroller by the Department of Education, of the number of children in each county and city according to the most recent statewide census of school population taken by the Department of Education pursuant to § 22.1-284, as adjusted in the manner hereinafter provided. No special school population census, other than a statewide census, shall be used as the basis of apportionment and distribution except that in any calendar year in which a statewide census is not reported, the Department of Education shall adjust such school population figures by the same percent of annual change in total population estimated for each locality by The Center for Public Service. The revenue so apportionable and distributable is hereby appropriated to the several counties and cities for maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the operation of the public schools, which shall be considered as funds raised from local resources. In any county, however, wherein is situated any incorporated town constituting a school division, the county treasurer shall pay into the town treasury for maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the operation of the public schools, the proper proportionate amount received by him in the ratio that the school population of such town bears to the school population of the entire county. If the school population of any city or of any town constituting a school division is increased by the annexation of territory since the last preceding school population census, such increase shall, for the purposes of this section, be added to the school population of such city or town as shown by the last such census and a proper reduction made in the school population of the county or counties from which the annexed territory was acquired.

E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment, wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used, in part, to defray the cost of law enforcement. Not later than thirty days after the close of each quarter, the Comptroller shall transfer to the Game Protection Fund the appropriate amount of collections to be dedicated to such Fund. At any time that the balance in the Capital Improvement Fund, established under § 29.1-101.1, is equal to or in excess of \$35 million, any portion of sales and use tax revenues that would have been transferred to the Game Protection Fund, established under § 29.1-101, in excess of the net operating expenses of the Board, after deduction of other amounts which accrue to the Board and are set aside for the Game Protection Fund, shall remain in the general fund until such time as the balance in the Capital Improvement Fund is less than \$35 million.

F. If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall be corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.

*G. The sales and use tax revenue generated and collected by the additional one percent sales and use tax, effective January 1, 2003, in the localities set forth in subsection B of § 58.1-603 shall be paid into the state treasury to the credit of the "Collections of Local Sales Taxes" fund created pursuant to § 58.1-605. The moneys shall be credited to the account of the particular county or city listed in subsection B of § 58.1-603. Sales tax moneys collected shall be credited in the manner provided by subsection E of § 58.1-605 and use tax moneys collected shall be credited in the manner provided by subsection E of § 58.1-606. Such revenues shall be distributed as follows:*

*1. One-half of the revenue credited to the account of such county or city shall be distributed to a regional transportation authority established to address and act upon the transportation needs of the counties and cities listed in subsection B of § 58.1-603. Such regional transportation authority shall have been created by legislation passed by the 2001 Session of the General Assembly or the 2002 Session of the General Assembly, and such legislation shall have been signed into law by the Governor. Such revenue shall be used for transportation purposes. Notwithstanding that such revenue is credited to the account of a particular county or city, such revenue shall be distributed to such authority and the particular county or city shall have no legal rights in or to such revenue.*

*2. One-half of the revenue credited to the account of such county or city shall be distributed to such county or city and shall be used solely within such county or city for public school construction, additions, renovations, including retrofitting and enlarging school buildings, infrastructure, including technology infrastructure, site acquisition for public school buildings and facilities, and debt service payments including those on such projects completed subsequent to 1991.*

*The revenue described under this subsection shall be distributed by warrant of the Comptroller drawn on the Treasurer of Virginia as soon as practicable after the close of each month during which the net revenue was received into the state treasury. The revenue credited and distributed pursuant to this subsection shall be computed with respect to the net revenue received into the state treasury during*

each month.

GH. The term "net revenue," as used in this section, means the gross revenue received into the general fund or the Transportation Trust Fund of the state treasury under the preceding sections of this chapter, less refunds to taxpayers.

2. That the one percent additional sales and use tax provided under this act shall be levied and imposed only if approved in a referendum. The referendum shall be held in accordance with § 24.2-684. Only the qualified voters in the following counties and cities shall vote on the referendum question: all counties having a population of more than 800,000, as determined by the 1990 U.S. Census, all counties and cities adjacent thereto, and all cities contiguous to such adjacent counties and cities. The clerks of the circuit courts for such counties and cities shall publish notice of the referendum in a newspaper of general circulation in the respective county or city once a week for three consecutive weeks prior to the referendum. The referendum shall be held on the Tuesday after the first Monday in November 2002. The regular election officers of such counties and cities shall open the polls on such day and shall take the sense of the qualified voters on an additional one percent sales and use tax in such counties and cities, as provided under this act.

The ballot used shall be printed to read as follows:

"Shall an additional state sales and use tax of one percent be imposed in Arlington County, Fairfax County, Loudoun County, Prince William County, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park, to be used as follows: (i) one-half of the revenues generated from the additional tax within each locality to be used by each locality solely for educational projects and (ii) the remaining one-half to be used solely for transportation projects as specified in Chapter (...Chapter number...) of the 2001 Acts of Assembly?

☐ Yes

☐ No"

3. That the regional transportation authority described in this act, if created under law, shall issue bonds for the following transportation projects and purposes as follows:

§ 1. Title. This act shall be known and may be cited as the "Northern Virginia Regional Transportation Program Bond Act of 2001."

§ 2. For purposes of this act, the following definitions shall apply:

"Authority" means a regional transportation authority (i) established to address and act upon the transportation needs of all counties having a population of more than 800,000, as determined by the 1990 U.S. Census, all counties and cities adjacent thereto, and all cities contiguous to such adjacent counties and cities, and (ii) created by legislation passed by the 2001 Session of the General Assembly or the 2002 Session of the General Assembly, with such legislation having been signed into law by the Governor.

"Program" means the Northern Virginia Regional Transportation Program.

"Project" means the transportation projects included in the program.

§ 3. The Program shall consist of the following projects: Dulles Corridor Transit (local share for Fairfax and Loudoun counties), I-66 improvements and rail extension (west of I-495), I-95 improvements and rail extension, Route 1 improvements, Techway/Eastern Potomac River crossing, I-495 highway and transit improvements, Fairfax County Parkway, Tri-County/Loudoun Parkway, VRE new railcars, Route 234 Bypass extended/Route 659 relocated, Metrorail capital improvements (including railcar purchase and station enhancements), secondary system improvements, urban system improvements (including Arlington County), Route 7 Loudoun, Route 7 Fairfax, Columbia Pike/Route 7 Transit, and Cities of Alexandria and Fairfax transit (bus) capital improvements.

§ 4. The Authority is hereby authorized to issue at one time or from time to time bonds in an aggregate principal amount not exceeding \$2,250,000,000 to finance the costs of the projects plus an amount for the issuance costs, capitalized interest, reserve funds, and other financing expenses (the "Bonds"). The proceeds of the Bonds shall be used exclusively for the purpose of providing funds, with any other available funds, for paying the costs incurred or to be incurred for construction or funding of the projects which comprise the program, consisting of environmental and engineering studies, rights-of-way acquisition, improvements to all modes of transportation, construction and related improvements (the "projects"). Such costs may include the payment of interest on the Bonds for a period during construction and not exceeding one year after completion of construction of the projects.

§ 5. The projects, and the amount of bonds authorized to be issued for each such project, are as follows and constitute the Northern Virginia Regional Transportation Program:

Projects	Bond amount
Dulles Corridor Transit (Local Share for	

Fairfax and Loudoun Counties	\$300,000,000
I-66 Improvements and Rail Extension	
(West of I-495)	\$300,000,000
I-95 Improvements and Rail Extension	\$275,000,000
Route 1 Improvements	\$100,000,000
Techway/Eastern Potomac River Crossing	\$100,000,000
I-495 Highway and Transit Improvements	\$200,000,000
Fairfax County Parkway	\$150,000,000
Tri-County/Loudoun Parkway	\$100,000,000
VRE New Railcars	\$50,000,000
Route 234 Bypass Extended/Route 659 Relocated	\$50,000,000
Metrorail Capital Improvements (Including	
Railcar Purchase and Station Enhancements)	\$200,000,000
Secondary System Improvements	\$100,000,000
Urban System Improvements (Including Arlington	
County)	\$100,000,000
Route 7 Loudoun	\$50,000,000
Route 7 Fairfax	\$50,000,000
Columbia Pike/Route 7 Transit	\$90,000,000
Cities of Alexandria and Fairfax Transit (Bus)	
Capital Improvements	\$35,000,000
Total	\$2,250,000,000

Bond proceeds allocated for Secondary System Improvements and Urban System Improvements shall be allocated pro-rata for improvements in the following counties and cities: all counties having a population of more than 800,000, as determined by the 1990 U.S. Census, all counties and cities adjacent thereto, and all cities contiguous to such adjacent counties and cities. Such allocation shall be made using the populations of such counties and cities as determined in the 1990 U.S. Census.

§ 6. The Authority is further authorized to borrow money in anticipation of the issuance of the bonds authorized under § 4 by the issuance of bond anticipation notes ("BANs"), including BANs as commercial paper.

§ 7. Application of Proceeds. Proceeds (including any premium) of the bonds and any BANs (except the proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds and (iii) refunding BANs) shall be deposited in a special capital outlay fund of the Authority and shall be disbursed only for the purpose for which the bonds or any BANs have been issued. In the event that the proceeds of the bonds or BANs exceed the cost of the projects specified in § 5, the Authority shall cause

544 *such excess proceeds to be applied to the retirement of the bonds or BANs. The proceeds of (i) bonds*  
545 *the issuance of which has been anticipated by BANs, (ii) refunding bonds and (iii) refunding BANs and*  
546 *any funds provided by the General Assembly, or available from any other source, for the purpose, shall*  
547 *be used to pay such BANs, refunded bonds and refunded BANs.*

548 *The Authority is hereby authorized to increase the appropriation for any project listed in § 5 by the*  
549 *amount of the proceeds of donations, gifts, grants or other source of moneys paid to the Authority in*  
550 *excess of such appropriation.*

551 *§ 8. Details, sale of bonds and BANs. The bonds shall be dated, shall mature at such time or times not*  
552 *exceeding forty years from their date or dates and may be made redeemable before their maturity or*  
553 *maturities at such price or prices or within such price parameters, all as may be determined by the*  
554 *Authority. The principal of the bonds shall be amortized, by payment into a sinking fund or otherwise,*  
555 *in annual installments. The first annual installment of principal of the bonds shall become due not later*  
556 *than one-tenth of the term of the bonds, and no installment of principal of the bonds shall be more than*  
557 *twice the smallest previous installment. Any such sinking fund shall not be appropriated for any other*  
558 *purpose.*

559 *The bonds shall be in such form, shall bear interest at such rate or rates, either at fixed rates or at*  
560 *rates established by formula or other method, and may contain such other provisions, all as the*  
561 *Authority may determine. The principal of and premium, if any, and interest on the bonds and BANs*  
562 *shall be payable in lawful money of the United States of America. Bonds and BANs may be certificated*  
563 *or uncertificated as determined by the Authority. The Authority may contract for services of such*  
564 *registrars, transfer agents, or other authenticating agents as it deems appropriate to maintain a record*  
565 *of the persons entitled to the bonds and BANs. Bonds and BANs may be issued under a system of book*  
566 *entry for recording the ownership and transfer of ownership of rights to receive payments on the bonds*  
567 *and BANs. The Authority shall fix the denomination or denominations of the bonds and the place or*  
568 *places of payment of principal, premium, if any, and interest, which may be at the office of the*  
569 *Authority or at any one or more banks or trust companies within or without the Commonwealth.*

570 *The Authority may sell the bonds and any BANs in such manner, either by competitive bidding,*  
571 *negotiated sale or private placement, and for such price as it may determine.*

572 *The bonds and BANs shall be signed on behalf of the Authority by the chairman of the Authority, or*  
573 *shall bear his facsimile signature. In the event that the bonds or BANs bear the facsimile signature of*  
574 *the chairman, they shall be signed by such administrative assistant as the chairman shall determine or*  
575 *by such registrar or paying agent as may be designated to sign them by the Authority. If any officer*  
576 *whose signature or facsimile signature shall appear on any bonds or BANs shall cease to be such*  
577 *officer before the delivery, such signature or such facsimile shall nevertheless be valid and sufficient for*  
578 *all purposes the same as if such officer had remained in office until such delivery, and any bond or*  
579 *BAN may bear the facsimile signature of, or may be signed by, such persons as at the actual time of the*  
580 *execution are the proper officers to sign such bond or BAN although, at the date of such bond or BAN,*  
581 *such persons may not have been such officers.*

582 *§ 9. Refunding. The Authority is hereby authorized to sell and issue, at one time or from time to time,*  
583 *refunding bonds and BANs, to refund any or all of the bonds and BANs, respectively, issued under this*  
584 *act. Refunding bonds or BANs may be issued in a principal amount up to the amount necessary to pay*  
585 *at maturity or redeem the bonds and BANs to be refunded and pay all issuance costs and other*  
586 *financing expenses of the refunding. Such refunding bonds and BANs may be issued whether or not the*  
587 *bonds or BANs to be refunded are then subject to redemption. Any escrow or trust fund established with*  
588 *the proceeds from the sale of refunding bonds shall be irrevocably pledged to the payment of the bonds*  
589 *to be refunded, and shall be used solely to pay such bonds or BANs at maturity or upon redemption or*  
590 *for the purchase of not less than all of the bonds or BANs to be refunded.*

591 *§ 10. Authorized Investments. Pending the application of the proceeds of the bonds or BANs (including*  
592 *refunding bonds and BANs) to the purpose for which they have been authorized and the application of*  
593 *funds set aside for the purpose to the payment of bonds or BANs, they may be invested by the Authority*  
594 *in legal investments under the laws of the Commonwealth for public funds and sinking funds, as the*  
595 *case may be. Whenever the Authority receives interest from the investment of the proceeds of bonds or*  
596 *any BANs, such interest shall become a part of the principal of the bonds or any BANs and shall be*  
597 *used in the same manner as required for principal of the bonds or BANs.*

598 *§ 11. The bonds authorized under § 5 may be issued without obtaining the consent of any commission,*  
599 *board, bureau or agency of the Commonwealth or of any political subdivision, and without any*  
600 *proceedings or the happening of conditions or things other than those proceedings, conditions or things*  
601 *that are specifically required under this act; however, each debt offering for such bonds shall be*  
602 *submitted to the State Treasurer sufficiently prior to the sale of such offering to allow the State*  
603 *Treasurer to undertake a review for the sole purposes of determining (i) whether the offering may*  
604 *constitute tax-supported debt of the Commonwealth and (ii) the potential impact of the offering on the*  
605 *debt capacity of the Commonwealth. After such review, the State Treasurer shall determine if the*

offering constitutes tax-supported debt of the Commonwealth and the potential impact of the offering on the debt capacity of the Commonwealth. If the State Treasurer determines that the debt offering may constitute tax-supported debt of the Commonwealth, or may have an adverse impact on the debt capacity of the Commonwealth, then the debt offering shall be submitted to the Treasury Board for review and approval of the terms and structure of the offering in a manner consistent with § 2.1-179. The Authority may issue such types of bonds as it may determine consistent with the provisions of §§ 4 and 5 of this act, including, without limitation, bonds payable as to principal and interest from any one or more of the following sources: (a) its revenues generally, including distributions paid or payable to the Authority pursuant to § 58.1-638; (b) income and revenues derived from the operation, sale or lease of a particular project or projects, whether or not they are financed from the proceeds of such bonds; (c) funds realized from the enforcement of security interests or other liens or obligations securing such bonds; (d) proceeds from the sale of bonds; (e) payments under letters of credit, policies of municipal bond insurance, guarantees or other credit enhancements; (f) any reserve or sinking funds created to secure such payment; (g) accounts receivable of the Authority; or (h) other available funds of the Authority.

Any bonds may be additionally guaranteed by, or secured by a pledge of, any grant, contribution or appropriation from a participating political subdivision, any federal agency or any private corporation, partnership, association or individual.

§ 12. Security for bonds and BANs. The proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds and (iii) refunding BANs are hereby irrevocably pledged for the payment of principal of and interest and any premium on such bonds or BANs to be refunded thereby.

Any bond authorized under this act may be issued pursuant to or secured by a trust indenture, deed of trust or mortgage of any property of the Authority, whether or not financed, in whole or in part, from the proceeds of such bonds, by a trust or other agreement with a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth, or other agent for bondholders, or any combination thereof. Any such trust indenture or other agreement may pledge or assign revenues, fees, rents and other charges to be received and may contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law. Such provisions may include covenants: (i) providing for the collection and application of revenues and sale by the Authority, or any trustees under any trust indenture or agreement, of any property upon default; (ii) setting forth duties of the Authority in relation to the acquisition, construction, maintenance, operation and insurance of any property of the Authority and the amounts of fees, rents and other charges to be charged; (iii) providing for the collection of revenues, fees, rents and other charges, and the custody, safeguarding and application of all moneys of the Authority; (iv) providing for the creation of sinking funds and the creation and maintenance of reserves; and (v) setting forth conditions or limitations with respect to the incurrence of indebtedness or the granting of mortgages or other liens. Such trust indenture, trust or other agreement may set forth the rights and remedies of the bondholders and of the trustee or other agent for bondholders and may restrict the individual right of action by bondholders.

In addition, the Authority may grant mortgages, deeds of trust, security interests and other liens on its real and personal property, including its accounts receivable, to secure bonds. All pledges of revenues of the Authority for payment of bonds shall be valid and binding from the time when the pledge is made, and the revenues pledged and thereafter received by the Authority shall be subject immediately to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. The Authority may also provide for the recording or filing of any mortgage, deed of trust, security interest or other lien, or any financing statement or other instrument, necessary or desirable to create, perfect or evidence any lien created pursuant to this act.

It shall be lawful for any bank or trust company within or without the Commonwealth to serve as depository of the proceeds of bonds or of other revenues of the Authority and to furnish indemnifying bonds or to pledge such securities as may be required by the Authority.

All expenses incurred in carrying out the provisions of such trust indenture or agreement or resolution or other agreements relating to any project may be treated as a part of the costs of a project.

§ 13. Except to the extent that the rights herein given may be restricted by such trust indenture or trust or other agreement, any holder of bonds or coupons authorized under this act and the trustee or other agent for bondholders under any trust indenture or trust or other agreement may, either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted under this act or under such trust indenture, trust or other agreement, and may enforce and compel the performance of all duties required under this

667 act or by such trust indenture, trust or other agreement to be performed by the Authority or by any  
668 officer or agent thereof, including the fixing, charging and collecting of revenues, fees, rents and other  
669 charges.

670 § 14. No member, officer, employee or agent of the Authority or any person executing bonds of the  
671 Authority shall be liable personally on the bonds by reason of their issuance or execution. Bonds of the  
672 Authority shall not be a debt of the Commonwealth or any political subdivision thereof other than the  
673 Authority and shall so state on their face. Neither the Commonwealth nor any political subdivision  
674 thereof other than the Authority shall be liable for payment of bonds of the Authority, nor shall such  
675 bonds be payable out of any funds or properties of the Commonwealth or any political subdivision  
676 thereof other than those of the Authority, except as permitted under this act. Bonds of the Authority are  
677 declared to be issued for an essential public and governmental purpose.

678 § 15. Expenses. All expenses incurred under this act shall be paid from the proceeds of the bonds, or  
679 any refunding bonds or BANs, or from any other available funds as the Authority may determine.

680 § 16. Bonds issued by the Authority under the provisions of this act are hereby made securities in which  
681 all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance  
682 companies, trust companies, banking associations, investment companies, executors, administrators,  
683 trustees and other fiduciaries may properly and legally invest funds, including capital in their control or  
684 belonging to them. Such bonds are hereby made securities that may properly and legally be deposited  
685 with and received by any state or municipal officer or any agency or political subdivision of the  
686 Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter  
687 be authorized by law.

688 § 17. Exemption of interest from tax. The bonds and BANs issued under the provisions of this act, their  
689 transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be  
690 exempt from taxation by the Commonwealth and by any political subdivision thereof. The interest on the  
691 bonds and any refunding bonds or BANs may be subject to inclusion in gross income of the holders  
692 thereof for federal income tax purposes.

693 § 18. Severability. The provisions of this act or the application thereof to any person or circumstance  
694 which are held invalid shall not affect the validity of other provisions or applications of this act which  
695 can be given effect without the invalid provisions or applications.

696 **4. Except as provided in this act, no state or local agency, department, board, commission, office**  
697 **or other body shall have any control over the use any revenues distributed to the regional**  
698 **transportation authority described in this act or over the amount of such revenues distributed to**  
699 **the authority pursuant to this act.**

700 **5. That the Department of Taxation, in accordance with the sales and use tax increase provided in**  
701 **this act, shall promulgate regulations, pursuant to the Administrative Process Act (§ 9-6.14:1 et**  
702 **seq.), establishing brackets of prices and associated state and combined state and local sales and**  
703 **use taxes on transactions of five dollars or less.**

704 **6. That the revenues distributed to localities for educational purposes or dedicated to**  
705 **transportation purposes pursuant to subsection G of § 58.1-638 shall not diminish or replace**  
706 **allocations for educational or transportation purposes made by the localities, the Commonwealth,**  
707 **or any other source, but shall be supplemental to all other such allocations. In addition, the**  
708 **revenues dedicated to transportation pursuant to § 58.1-638 shall not be used to calculate or**  
709 **reduce the share of federal or state revenues otherwise available to the localities listed in the**  
710 **second enactment of this act or to the Northern Virginia construction district.**

711 **7. That, except for the referendum in the second enactment of this act, the provisions of this act**  
712 **shall be effective on January 1, 2003, only if (i) a majority of those voting at the election and upon**  
713 **the question described in the second enactment of this act vote in the affirmative on the question**  
714 **presented, and (ii) a regional transportation authority established to address and act upon the**  
715 **transportation needs of the localities listed in the second enactment of this act shall have been**  
716 **created by legislation passed by the 2001 Session of the General Assembly or the 2002 Session of**  
717 **the General Assembly, and signed into law by the Governor. For purposes of this act, "a majority**  
718 **of those voting at the election" means a majority of those voting in the entire region constituted by**  
719 **the localities specified in the second enactment, and does not require a majority of those voting in**  
720 **each locality. The referendum described in the second enactment of this act shall not be held if the**  
721 **regional transportation authority described under this act is not created by legislation passed by**  
722 **the 2001 Session of the General Assembly or the 2002 Session of the General Assembly.**