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## HOUSE BILL NO. 1296

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance  
on February 26, 2002)

(Patron Prior to Substitute—Delegate Rollison)

A *BILL to amend and reenact §§ 58.1-602, 58.1-603, 58.1-604, 58.1-604.1, 58.1-605, 58.1-606, 58.1-608.3, 58.1-611.1, 58.1-614, 58.1-626, 58.1-638 and 58.1-3833 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 58.1-604.4 and 58.1-628.1; and to repeal Article 22 (§§ 58.1-540 through 58.1-549) of Chapter 3 of Title 58.1 and §§ 58.1-627 and 58.1-628 of the Code of Virginia, relating to sales and use taxes in counties and cities of the Commonwealth that were part of a planning district, established pursuant to § 15.2-4203, whose entire planning district geographic boundaries were, as of January 1, 2002, designated as nonattainment for the one-hour ozone standard pursuant to the federal Clean Air Act Amendments of 1990; dedicating revenues from such taxes for transportation projects for such counties and cities; and relating to an additional one-half of one percent sales and use tax in all jurisdictions of the Commonwealth and distributing the revenues attributable to such additional one-half of one percent sales and use tax to counties and cities for expenses incurred in the operation of public schools and capital projects for public schools.*

Whereas, the nonattainment designation under the federal Clean Air Act for one-hour ozone indicates, among other things, that the citizens of such area are at risk for respiratory health problems and that all localities in such area are in jeopardy of losing federal highway funds; and

Whereas, the nonattainment designation for one-hour ozone is directly related to the severity of traffic congestion in an area; and

Whereas, the nonattainment designation for one-hour ozone and the severity of traffic congestion are credible threats to the quality of life and economic independence of the residents of such area; and

Whereas, one purpose of the Regional Cooperation Act pursuant to § 15.2-4201 is to "improve public health, safety, convenience and welfare, and to provide for the social, economic and physical development of communities and metropolitan areas of the Commonwealth on a sound and orderly basis, within a governmental framework and economic environment which will foster constructive growth and efficient administration"; and

Whereas, the entire geographic boundaries of the Eighth Planning District suffer from nonattainment for one-hour ozone and severe traffic congestion; and

Whereas, pursuant to Chapter 48.1 (§ 15.2-4816 et seq.) of Title 15.2, the Northern Virginia Transportation Authority, the General Assembly has determined that the development of an integrated and efficient transportation system, composed of transit facilities, public highways, and other modes of transport, is necessary for the continued prosperity and quality of life of the citizens in the counties and cities of the Eighth Planning District; and

Whereas, the General Assembly has also determined pursuant to Chapter 48.1 that the most advisable means of planning and developing a transportation system required for the safety, comfort, and convenience of the citizens of such counties and cities and for the economical utilization of public funds is to create a transportation authority, the Northern Virginia Transportation Authority, comprised of, amongst other persons, representatives of such counties and cities; and

Whereas, the General Assembly has vested the Northern Virginia Transportation Authority with the powers necessary to construct such transportation system, including the power to issue debt; and

Whereas, by affirming the provisions of this act the General Assembly is reconfirming the Commonwealth's long-standing policy that safe, adequate, and efficient transportation systems cannot be achieved on a locality by locality basis, but planning and action on a regional basis is required; and

Whereas, as the counties and cities of the Eighth Planning District are designated nonattainment for one-hour ozone, there is a commonality of interest and a commonality of ability to act in such region because the resulting serious regional problem coincides with a previously determined region where the rectifying transportation projects in the region are naturally connected; and

Whereas, the current designation of nonattainment for one-hour ozone for all of the counties and cities of the Eighth Planning District has created a crisis that requires bold and immediate action; and

Whereas, along with the regional transportation system in the Commonwealth, there is a state of crisis in the public education system of the Commonwealth that also requires immediate action; and

Whereas, the number of students enrolled in many of Virginia's public schools exceeds the student capacity for such schools; and

Whereas, as a result, classrooms have become crowded, which has hampered the ability of Virginia's public school teachers to impart to students the basic skills required for employment; and

SENATE SUBSTITUTE

HB1296S1

60 Whereas, many of Virginia's public schools are dilapidated and are beyond repair while others are in  
61 need of major repairs; and

62 Whereas, the General Assembly finds that Virginia's local governments and public school divisions  
63 are in the best position to assess and address the needs of Virginia's public schools; and

64 Whereas, the General Assembly affirms that a high-quality transportation and education system are  
65 fundamental for the continued prosperity and quality of life of the citizens of the Commonwealth; now,  
66 therefore,

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

68 **1. That §§ 58.1-602, 58.1-603, 58.1-604, 58.1-604.1, 58.1-605, 58.1-606, 58.1-608.3, 58.1-611.1,**  
69 **58.1-614, 58.1-626, 58.1-638 and 58.1-3833 of the Code of Virginia are amended and reenacted and**  
70 **that the Code of Virginia is amended by adding sections numbered 58.1-604.4 and 58.1-628.1 as**  
71 **follows:**

72 § 58.1-602. Definitions.

73 As used in this chapter, unless the context clearly shows otherwise, the term or phrase:

74 "Advertising" means the planning, creating, or placing of advertising in newspapers, magazines,  
75 billboards, broadcasting and other media, including, without limitation, the providing of concept, writing,  
76 graphic design, mechanical art, photography and production supervision. Any person providing  
77 advertising as defined herein shall be deemed to be the user or consumer of all tangible personal  
78 property purchased for use in such advertising.

79 "Amplification, transmission and distribution equipment" means, but is not limited to, production,  
80 distribution, and other equipment used to provide Internet-access services, such as computer and  
81 communications equipment and software used for storing, processing and retrieving end-user subscribers'  
82 requests.

83 "Business" includes any activity engaged in by any person, or caused to be engaged in by him, with  
84 the object of gain, benefit or advantage, either directly or indirectly.

85 "Cost price" means the actual cost of an item or article of tangible personal property computed in the  
86 same manner as the sales price as defined in this section without any deductions therefrom on account  
87 of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever.

88 "Custom program" means a computer program which is specifically designed and developed only for  
89 one customer. The combining of two or more prewritten programs does not constitute a custom  
90 computer program. A prewritten program that is modified to any degree remains a prewritten program  
91 and does not become custom.

92 "Distribution" means the transfer or delivery of tangible personal property for use, consumption, or  
93 storage by the distributee, and the use, consumption, or storage of tangible personal property by a  
94 person who has processed, manufactured, refined, or converted such property, but does not include the  
95 transfer or delivery of tangible personal property for resale or any use, consumption, or storage  
96 otherwise exempt under this chapter.

97 "Gross proceeds" means the charges made or voluntary contributions received for the lease or rental  
98 of tangible personal property or for furnishing services, computed with the same deductions, where  
99 applicable, as for sales price as defined in this section over the term of the lease, rental, service, or use,  
100 but not less frequently than monthly.

101 "Gross sales" means the sum total of all retail sales of tangible personal property or services as  
102 defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" shall not  
103 include the federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the  
104 Internal Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the  
105 article, or the Virginia retail sales or use tax, or any sales or use tax imposed by any county or city  
106 under § 58.1-605 or § 58.1-606 or any tax imposed pursuant to § 58.1-604.4.

107 "Import" and "imported" are words applicable to tangible personal property imported into this  
108 Commonwealth from other states as well as from foreign countries, and "export" and "exported" are  
109 words applicable to tangible personal property exported from this Commonwealth to other states as well  
110 as to foreign countries.

111 "In this Commonwealth" or "in the Commonwealth" means within the limits of the Commonwealth  
112 of Virginia and includes all territory within these limits owned by or ceded to the United States of  
113 America.

114 "Internet" means collectively, the myriad of computer and telecommunications facilities, which  
115 comprise the interconnected world-wide network of computer networks.

116 "Internet service" means a service that enables users to access proprietary and other content,  
117 information electronic mail, and the Internet as part of a package of services sold to end-user  
118 subscribers.

119 "Lease or rental" means the leasing or renting of tangible personal property and the possession or use  
120 thereof by the lessee or renter for a consideration, without transfer of the title to such property.

121 "Manufacturing, processing, refining, or conversion" includes the production line of the plant starting

with the handling and storage of raw materials at the plant site and continuing through the last step of production where the product is finished or completed for sale and conveyed to a warehouse at the production site, and also includes equipment and supplies used for production line testing and quality control. The term "manufacturing" shall also include the necessary ancillary activities of newspaper and magazine printing when such activities are performed by the publisher of any newspaper or magazine for sale daily or regularly at average intervals not exceeding three months.

The determination whether any manufacturing, mining, processing, refining or conversion activity is industrial in nature shall be made without regard to plant size, existence or size of finished product inventory, degree of mechanization, amount of capital investment, number of employees or other factors relating principally to the size of the business. Further, "industrial in nature" shall include, but not be limited to, those businesses classified in codes 10 through 14 and 20 through 39 published in the Standard Industrial Classification Manual for 1972 and any supplements issued thereafter.

"Modular building" means, but shall not be limited to, single and multifamily houses, apartment units, commercial buildings, and permanent additions thereof, comprised of one or more sections that are intended to become real property, primarily constructed at a location other than the permanent site, built to comply with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.) as regulated by the Virginia Department of Housing and Community Development, and shipped with most permanent components in place to the site of final assembly. For purposes of this chapter, a modular building shall not include a mobile office as defined in § 58.1-2401 or any manufactured building subject to and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.).

"Modular building manufacturer" means a person or corporation who owns or operates a manufacturing facility and is engaged in the fabrication, construction and assembling of building supplies and materials into modular buildings, as defined in this section, at a location other than at the site where the modular building will be assembled on the permanent foundation and may or may not be engaged in the process of affixing the modules to the foundation at the permanent site.

"Modular building retailer" means any person who purchases or acquires a modular building from a modular building manufacturer, or from another person, for subsequent sale to a customer residing within or outside of the Commonwealth, with or without installation of the modular building to the foundation at the permanent site.

"Motor vehicle" means a "motor vehicle" as defined in § 58.1-2401, taxable under the provisions of the Virginia Motor Vehicles Sales and Use Tax Act (§ 58.1-2400 et seq.) and upon the sale of which all applicable motor vehicle sales and use taxes have been paid.

"Occasional sale" means a sale of tangible personal property not held or used by a seller in the course of an activity for which he is required to hold a certificate of registration, including the sale or exchange of all or substantially all the assets of any business and the reorganization or liquidation of any business, provided such sale or exchange is not one of a series of sales and exchanges sufficient in number, scope and character to constitute an activity requiring the holding of a certificate of registration.

"Open video system" means an open video system authorized pursuant to 47 U.S.C. § 573 and, for purposes of this chapter only, shall also include Internet service regardless of whether the provider of such service is also a telephone common carrier.

"Person" includes any individual, firm, copartnership, cooperative, nonprofit membership corporation, joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver, auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit, body politic or political subdivision, whether public or private, or quasi-public, and the plural of such term shall mean the same as the singular.

"Prewritten program" means a computer program that is prepared, held or existing for general or repeated sale or lease, including a computer program developed for in-house use and subsequently sold or leased to unrelated third parties.

"Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in the form of tangible personal property or services taxable under this chapter, and shall include any such transaction as the Tax Commissioner upon investigation finds to be in lieu of a sale. All sales for resale must be made in strict compliance with regulations applicable to this chapter. Any dealer making a sale for resale which is not in strict compliance with such regulations shall be personally liable for payment of the tax.

The terms "retail sale" and a "sale at retail" shall specifically include the following: (i) the sale or charges for any room or rooms, lodgings, or accommodations furnished to transients for less than ninety continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration; and (ii) sales of tangible personal property to persons for resale when because of the operation of the business, or its very nature, or the lack of a place of business in which to display a

183 certificate of registration, or the lack of a place of business in which to keep records, or the lack of  
184 adequate records, or because such persons are minors or transients, or because such persons are engaged  
185 in essentially service businesses, or for any other reason there is likelihood that the Commonwealth will  
186 lose tax funds due to the difficulty of policing such business operations. The Tax Commissioner is  
187 authorized to promulgate regulations requiring vendors of or sellers to such persons to collect the tax  
188 imposed by this chapter on the cost price of such tangible personal property to such persons and may  
189 refuse to issue certificates of registration to such persons.

190 The term "transient" shall not include a purchaser of camping memberships, time-shares,  
191 condominiums, or other similar contracts or interests that permit the use of, or constitute an interest in,  
192 real estate, however created or sold and whether registered with this Commonwealth or not. Further, a  
193 purchaser of a right or license which entitles the purchaser to use the amenities and facilities of a  
194 specific real estate project on an ongoing basis throughout its term shall not be deemed a transient;  
195 provided, however, that the term or time period involved is for seven years or more.

196 The terms "retail sale" and "sale at retail" shall not include a transfer of title to tangible personal  
197 property after its use as tools, tooling, machinery or equipment, including dies, molds, and patterns, if (i)  
198 at the time of purchase, the purchaser is obligated, under the terms of a written contract, to make the  
199 transfer and (ii) the transfer is made for the same or a greater consideration to the person for whom the  
200 purchaser manufactures goods.

201 "Retailer" means every person engaged in the business of making sales at retail, or for distribution,  
202 use, consumption, or storage to be used or consumed in this Commonwealth.

203 "Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional  
204 or otherwise, in any manner or by any means whatsoever, of tangible personal property and any  
205 rendition of a taxable service for a consideration, and includes the fabrication of tangible personal  
206 property for consumers who furnish, either directly or indirectly, the materials used in fabrication, and  
207 the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on  
208 the premises of the person furnishing, preparing, or serving such tangible personal property. A  
209 transaction whereby the possession of property is transferred but the seller retains title as security for the  
210 payment of the price shall be deemed a sale.

211 "Sales price" means the total amount for which tangible personal property or services are sold,  
212 including any services that are a part of the sale, valued in money, whether paid in money or otherwise,  
213 and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer,  
214 without any deduction therefrom on account of the cost of the property sold, the cost of materials used,  
215 labor or service costs, losses or any other expenses whatsoever. "Sales price" shall not include (i) any  
216 cash discount allowed and taken (ii) finance charges, carrying charges, service charges or interest from  
217 credit extended on sales of tangible personal property under conditional sale contracts or other  
218 conditional contracts providing for deferred payments of the purchase price, or (iii) separately stated  
219 local property taxes collected. Where used articles are taken in trade, or in a series of trades as a credit  
220 or part payment on the sale of new or used articles, the tax levied by this chapter shall be paid on the  
221 net difference between the sales price of the new or used articles and the credit for the used articles.

222 "Storage" means any keeping or retention of tangible personal property for use, consumption or  
223 distribution in this Commonwealth, or for any purpose other than sale at retail in the regular course of  
224 business.

225 "Tangible personal property" means personal property which may be seen, weighed, measured, felt,  
226 or touched, or is in any other manner perceptible to the senses. The term "tangible personal property"  
227 shall not include stocks, bonds, notes, insurance or other obligations or securities.

228 "Use" means the exercise of any right or power over tangible personal property incident to the  
229 ownership thereof, except that it does not include the sale at retail of that property in the regular course  
230 of business. The term does not include the exercise of any right or power, including use, distribution, or  
231 storage, over any tangible personal property sold to a nonresident donor for delivery outside of the  
232 Commonwealth to a nonresident recipient pursuant to an order placed by the donor from outside the  
233 Commonwealth via mail or telephone.

234 "Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as herein  
235 defined.

236 "Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers to  
237 those activities which are an integral part of the production of a product, including all steps of an  
238 integrated manufacturing or mining process, but not including ancillary activities such as general  
239 maintenance or administration. When used in relation to mining, it shall refer to the activities specified  
240 above, and in addition, any reclamation activity of the land previously mined by the mining company  
241 required by state or federal law.

242 "Video programmer" means a person or entity that provides video programming to end-user  
243 subscribers.

244 "Video programming" means video and/or information programming provided by or generally

considered comparable to programming provided by a cable operator including, but not limited to, Internet service.

§ 58.1-603. Imposition of sales tax.

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 *through midnight on June 30, 2003, and four percent beginning July 1, 2003*:

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.

§ 58.1-604. Imposition of use tax.

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 *through midnight on June 30, 2003, and four percent beginning July 1, 2003*:

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, while within this Commonwealth.

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

§ 58.1-604.1. Use tax on motor vehicles, machinery, tools and equipment brought into Virginia for use in performing contracts.

In addition to the use tax levied pursuant to § 58.1-604 and notwithstanding the provisions of § 58.1-611, a use tax is levied upon the storage or use of all motor vehicles, machines, machinery, tools or other equipment brought, imported or caused to be brought into this Commonwealth for use in constructing, building or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or water system, drainage or dredging system, railway system, reservoir or dam, hydraulic or power plant, transmission line, tower, dock, wharf, excavation, grading, or other improvement or structure, or any part thereof. The rate of tax is three and one-half percent *through midnight on June 30, 2003, and four percent beginning July 1, 2003*, on all tangible personal property except motor vehicles, which shall be taxed at the rate of three percent; aircraft, which shall be taxed at the rate of two percent; and watercraft, which shall be taxed at the rate of two percent with a maximum tax of \$1,000.

For purposes of this section the words "motor vehicle" means any vehicle which is self-propelled and designed primarily for use upon the highways, any vehicle which is propelled by electric power obtained from trolley wires but not operated upon rails, and any vehicle designed to run upon the highways

306 which is pulled by a self-propelled vehicle, but shall not include any implement of husbandry, farm  
307 tractor, road construction or maintenance machinery or equipment, special mobile equipment or any  
308 vehicle designed primarily for use in work off the highway.

309 The tax shall be computed on the basis of such proportion of the original purchase price of such  
310 property as the duration of time of use in this Commonwealth bears to the total useful life thereof. For  
311 purposes of this section, the word "use" means use, storage, consumption and "stand-by" time  
312 occasioned by weather conditions, controversies or other causes. The tax shall be computed upon the  
313 basis of the relative time each item of equipment is in this Commonwealth rather than upon the basis of  
314 actual use. In the absence of satisfactory evidence as to the period of use intended in this  
315 Commonwealth, it will be presumed that such property will remain in this Commonwealth for the  
316 remainder of its useful life, which shall be determined in accordance with the experiences and practices  
317 of the building and construction trades.

318 A transaction taxed under §§ 58.1-604, 58.1-605, 58.1-1402, 58.1-1502, or § 58.1-2402 shall not also  
319 be taxed under this section, nor shall the same transaction be taxed more than once under any section.

320 § 58.1-604.4. *One-half of one percent sales tax in certain counties and cities.*

321 A. *Beginning July 1, 2003, a tax of one-half of one percent is hereby levied and imposed on the*  
322 *property, activities and services described in § 58.1-603 in all counties and cities that were part of a*  
323 *planning district, established pursuant to § 15.2-4203, whose entire planning district geographic*  
324 *boundaries were, as of January 1, 2002, designated as nonattainment for the one-hour ozone standard*  
325 *pursuant to the federal Clean Air Act Amendments of 1990.*

326 B. *Beginning July 1, 2003, a tax of one-half of one percent is hereby levied and imposed on the*  
327 *property, activities and services described in § 58.1-604 in all counties and cities that were part of a*  
328 *planning district, established pursuant to § 15.2-4203, whose entire planning district geographic*  
329 *boundaries were, as of January 1, 2002, designated as nonattainment for the one-hour ozone standard*  
330 *pursuant to the federal Clean Air Act Amendments of 1990.*

331 C. *The taxes under this section shall be subject to all the provisions of this chapter and the rules*  
332 *and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed on any*  
333 *tax provided under this section.*

334 D. *All taxes paid to the Tax Commissioner pursuant to this section, less the applicable portion of*  
335 *any refunds to taxpayers, shall be deposited in a special fund titled the "Special Fund Account of the*  
336 *Northern Virginia Transportation Authority." The moneys deposited in the special fund shall be*  
337 *distributed monthly to the Northern Virginia Transportation Authority to be used for funding of the*  
338 *Northern Virginia Regional Transportation Program as created under the Northern Virginia Regional*  
339 *Transportation Program Bond Act of 2002.*

340 § 58.1-605. To what extent and under what conditions cities and counties may levy local sales taxes;  
341 collection thereof by Commonwealth and return of revenue to each city or county entitled thereto.

342 A. No county, city or town shall impose any local general sales or use tax or any local general retail  
343 sales or use tax except as authorized by this section.

344 B. The council of any city and the governing body of any county may levy a general retail sales tax  
345 at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall  
346 be added to the rate of the state sales tax imposed by §§ 58.1-603 and 58.1-604 and shall be subject to  
347 all the provisions of this chapter and the rules and regulations published with respect thereto. The  
348 applicable brackets of prices shall be as prescribed in ~~§ 58.1-628~~ by the Tax Commissioner for the  
349 combined state and local tax. No discount under § 58.1-622 shall be allowed on a local sales tax.

350 C. The council of any city and the governing body of any county desiring to impose a local sales tax  
351 under this section may do so by the adoption of an ordinance stating its purpose and referring to this  
352 section, and providing that such ordinance shall be effective on the first day of a month at least sixty  
353 days after its adoption. A certified copy of such ordinance shall be forwarded to the Tax Commissioner  
354 so that it will be received within five days after its adoption.

355 D. Any local sales tax levied under this section shall be administered and collected by the Tax  
356 Commissioner in the same manner and subject to the same penalties as provided for the state sales tax,  
357 with the adjustments required by ~~§ 58.1-628~~ § 58.1-628.1.

358 E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid  
359 into the state treasury to the credit of a special fund which is hereby created on the Comptroller's books  
360 under the name "Collections of Local Sales Taxes." Such local sales tax moneys shall be credited to the  
361 account of each particular city or county levying a local sales tax under this section. The basis of such  
362 credit shall be the city or county in which the sales were made as shown by the records of the  
363 Department and certified by it monthly to the Comptroller, namely, the city or county of location of  
364 each place of business of every dealer paying the tax to the Commonwealth without regard to the city or  
365 county of possible use by the purchasers. If a dealer has any place of business located in more than one  
366 political subdivision by reason of the boundary line or lines passing through such place of business, the  
367 amount of sales tax paid by such a dealer with respect to such place of business shall be treated for the

purposes of this section as follows: one-half shall be assignable to each political subdivision where two are involved, one-third where three are involved, and one-fourth where four are involved.

F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in any month for the preceding month, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper amount in favor of each city or county entitled to the monthly return of its local sales tax moneys, and such payments shall be charged to the account of each such city or county under the special fund created by this section. If errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall be corrected and adjustments made in the payments for the next six months as follows: one-sixth of the total adjustment shall be included in the payments for the next six months. In addition, the payment shall include a refund of amounts erroneously not paid to the city or county and not previously refunded during the three years preceding the discovery of the error. A correction and adjustment in payments described in this subsection due to the misallocation of funds by the dealer shall be made within three years of the date of the payment error.

G. Such payments to counties are subject to the qualification that in any county wherein is situated any incorporated town constituting a special school district and operated as a separate school district under a town school board of three members appointed by the town council, the county treasurer shall pay into the town treasury for general governmental purposes the proper proportionate amount received by him in the ratio that the school age population of such town bears to the school age population of the entire county. If the school age population of any town constituting a separate school district is increased by the annexation of territory since the last preceding school age population census, such increase shall, for the purposes of this section, be added to the school age population of such town as shown by the last such census and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

H. One-half of such payments to counties are subject to the further qualification, other than as set out in subsection G above, that in any county wherein is situated any incorporated town not constituting a separate special school district which has complied with its charter provisions providing for the election of its council and mayor for a period of at least four years immediately prior to the adoption of the sales tax ordinance, the county treasurer shall pay into the town treasury of each such town for general governmental purposes the proper proportionate amount received by him in the ratio that the school age population of each such town bears to the school age population of the entire county, based on the latest statewide school census. The preceding requirement pertaining to the time interval between compliance with election provisions and adoption of the sales tax ordinance shall not apply to a tier-city. If the school age population of any such town not constituting a separate special school district is increased by the annexation of territory or otherwise since the last preceding school age population census, such increase shall, for the purposes of this section, be added to the school age population of such town as shown by the last such census and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

I. Notwithstanding the provisions of subsection H, the board of supervisors of a county may, in its discretion, appropriate funds to any incorporated town not constituting a separate school district within such county which has not complied with the provisions of its charter relating to the elections of its council and mayor, an amount not to exceed the amount it would have received from the tax imposed by this chapter if such election had been held.

J. It is further provided that if any incorporated town which would otherwise be eligible to receive funds from the county treasurer under subsection G or H of this section be located in a county which does not levy a general retail sales tax under the provisions of this law, such town may levy a general retail sales tax at the rate of one percent to provide revenue for the general fund of the town, subject to all the provisions of this section generally applicable to cities and counties. Any tax levied under the authority of this subsection shall in no case continue to be levied on or after the effective date of a county ordinance imposing a general retail sales tax in the county within which such town is located.

§ 58.1-606. To what extent and under what conditions cities and counties may levy local use tax; collection thereof by Commonwealth and return of revenues to the cities and counties.

A. The council of any city and the governing body of any county which has levied or may hereafter levy a city or county sales tax under § 58.1-605 may levy a city or county use tax at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall be added to the rate of the state use tax imposed by this chapter and shall be subject to all the provisions of this chapter, and all amendments thereof, and the rules and regulations published with respect thereto, except that the applicable brackets of prices shall be as prescribed in ~~§ 58.1-628~~ by the Tax Commissioner for the combined state and local tax, and except that no discount under § 58.1-622 shall be allowed on a local use tax.

B. The council of any city and the governing body of any county desiring to impose a local use tax

429 under this section may do so in the manner following:

430 1. If the city or county has previously imposed the local sales tax authorized by § 58.1-605, the local  
431 use tax may be imposed by the council or governing body by the adoption of a resolution by a majority  
432 of all the members thereof, by a recorded yea and nay vote, stating its purpose and referring to this  
433 section, and providing that the local use tax shall become effective on the first day of a month at least  
434 sixty days after the adoption of the resolution. A certified copy of such resolution shall be forwarded to  
435 the Tax Commissioner so that it will be received within five days after its adoption. The resolution  
436 authorized by this paragraph may be adopted in the manner stated notwithstanding any other provision  
437 of law, including any charter provision.

438 2. If the city or county has not imposed the local sales tax authorized by § 58.1-605, the local use  
439 tax may be imposed by ordinance together with the local sales tax in the manner set out in subsections  
440 B and C of § 58.1-605.

441 C. Any local use tax levied under this section shall be administered and collected by the Tax  
442 Commissioner in the same manner and subject to the same penalties as provided for the state use tax,  
443 with the adjustments required by ~~§ 58.1-628~~ § 58.1-628.1.

444 D. The local use tax authorized by this section shall not apply to transactions to which the sales tax  
445 applies, the situs of which for state and local sales tax purposes is the city or county of location of each  
446 place of business of every dealer paying the tax to the Commonwealth without regard to the city or  
447 county of possible use by the purchasers. However, the local use tax authorized by this section shall  
448 apply to tangible personal property purchased without this Commonwealth for use or consumption  
449 within the city or county imposing the local use tax, or stored within the city or county for use or  
450 consumption, where the property would have been subject to the sales tax if it had been purchased  
451 within this Commonwealth. The local use tax shall also apply to leases or rentals of tangible personal  
452 property where the place of business of the lessor is without this Commonwealth and such leases or  
453 rentals are subject to the state tax. Moreover, the local use tax shall apply in all cases in which the state  
454 use tax applies.

455 E. Out-of-state dealers who hold certificates of registration to collect the use tax from their customers  
456 for remittance to this Commonwealth shall, to the extent reasonably practicable, in filing their monthly  
457 use tax returns with the Tax Commissioner, break down their shipments into this Commonwealth by  
458 cities and counties so as to show the city or county of destination. If, however, the out-of-state dealer is  
459 unable accurately to assign any shipment to a particular city or county, the local use tax on the tangible  
460 personal property involved shall be remitted to the Commonwealth by such dealer without attempting to  
461 assign the shipment to any city or county.

462 F. Local use tax revenue shall be distributed among the cities and counties for which it is collected,  
463 respectively, as shown by the records of the Department, and the procedure shall be the same as that  
464 prescribed for distribution of local sales tax revenue under § 58.1-605. The local use tax revenue that is  
465 not accurately assignable to a particular city or county shall be distributed monthly by the appropriate  
466 state authorities among the cities and counties in this Commonwealth imposing the local use tax upon  
467 the basis of taxable retail sales in the respective cities and counties in which the local sales and use tax  
468 was in effect in the taxable month involved, as shown by the records of the Department, and computed  
469 with respect to taxable retail sales as reflected by the amounts of the local sales tax revenue distributed  
470 among such cities and counties, respectively, in the month of distribution. Notwithstanding any other  
471 provision of this section, the Tax Commissioner shall develop a uniform method to distribute local use  
472 tax. Any significant changes to the method of local use tax distribution shall be phased in over a ~~five~~  
473 *five*-year period. Distribution information shall be shared with the affected localities prior to  
474 implementation of the changes.

475 G. All local use tax revenue shall be used, applied or disbursed by the cities and counties as  
476 provided in § 58.1-605 with respect to local sales tax revenue.

477 § 58.1-608.3. Entitlement to certain sales tax revenues.

478 A. As used in this section, the following words and terms have the following meanings, unless some  
479 other meaning is plainly intended:

480 "Bonds" means any obligations of a municipality for the payment of money.

481 "Cost," as applied to any public facility or to extensions or additions to any public facility, includes:  
482 (i) the purchase price of any public facility acquired by the municipality or the cost of acquiring all of  
483 the capital stock of the corporation owning the public facility and the amount to be paid to discharge  
484 any obligations in order to vest title to the public facility or any part of it in the municipality; (ii)  
485 expenses incident to determining the feasibility or practicability of the public facility; (iii) the cost of  
486 plans and specifications, surveys and estimates of costs and of revenues; (iv) the cost of all land,  
487 property, rights, easements and franchises acquired; (v) the cost of improvements, property or  
488 equipment; (vi) the cost of engineering, legal and other professional services; (vii) the cost of  
489 construction or reconstruction; (viii) the cost of all labor, materials, machinery and equipment; (ix)  
490 financing charges; (x) interest before and during construction and for up to one year after completion of



construction; (xi) start-up costs and operating capital; (xii) payments by a municipality of its share of the cost of any multi-jurisdictional public facility; (xiii) administrative expense; (xiv) any amounts to be deposited to reserve or replacement funds; and (xv) other expenses as may be necessary or incident to the financing of the public facility. Any obligation or expense incurred by the public facility in connection with any of the foregoing items of cost may be regarded as a part of the cost.

"Municipality" means any county, city, town, authority, commission, or other public entity.

"Public facility" means (i) any auditorium, coliseum, convention center, or conference center, which is owned by a Virginia county, city, town, authority, or other public entity and where exhibits, meetings, conferences, conventions, seminars, or similar public events may be conducted; (ii) any hotel which is owned by a foundation whose sole purpose is to benefit a state-supported university and which is attached to and is an integral part of such facility, together with any lands reasonably necessary for the conduct of the operation of such events; or (iii) any hotel which is attached to and is an integral part of such facility. However, such public facility must be located in a city with a population of at least 24,200 but no more than 24,500 as determined by the 1990 United States Census, at least 50,000 but no more than 52,500, at least 95,000 but no more than 105,000, or at least 130,000 but no more than 135,000. Any property, real, personal, or mixed, which is necessary or desirable in connection with any such auditorium, coliseum, convention center, or conference center, including, without limitation, facilities for food preparation and serving, parking facilities, and administration offices, is encompassed within this definition. However, structures commonly referred to as "shopping centers" or "malls" shall not constitute a public facility hereunder. In addition, only a new public facility, or a public facility which will undergo a substantial and significant renovation or expansion, shall be eligible under subsection B of this section. A new public facility is one whose construction began after December 31, 1991. A substantial and significant renovation entails a project whose cost is at least fifty percent of the original cost of the facility being renovated and shall have begun after December 31, 1991. A substantial and significant expansion entails an increase in floor space of at least fifty percent over that existing in the preexisting facility and shall have begun after December 31, 1991.

"Sales tax revenues" means such tax collections realized under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) of Title 58.1, as limited herein. "Sales tax revenues" does not include the revenue generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly which shall be paid to the Transportation Trust Fund as defined in § 33.1-23.03:1, ~~nor shall it include the one percent of the state sales and use tax revenue distributed among the counties and cities of the Commonwealth pursuant to § 58.1-638 D subsection D of § 58.1-638 on the basis of school school-age population, nor shall it include the one-half of one percent sales and use tax revenue distributed pursuant to subsection G of § 58.1-638.~~

B. Any municipality which has issued bonds (i) after December 31, 1991, but before January 1, 1996, (ii) on or after January 1, 1998, but before July 1, 1999, (iii) on or after January 1, 1999, but before July 1, 2001, (iv) on or after July 1, 2000, but before July 1, 2003, or (v) on or after July 1, 2001, but before July 1, 2004, to pay the cost, or portion thereof, of any public facility shall be entitled to all sales tax revenues generated by transactions taking place in such public facility. Such entitlement shall continue for the lifetime of such bonds, which entitlement shall not exceed thirty years, and all such sales tax revenues shall be applied to repayment of the bonds. The State Comptroller shall remit such sales tax revenues to the municipality on a quarterly basis, subject to such reasonable processing delays as may be required by the Department of Taxation to calculate the actual net sales tax revenues derived from the public facility. The State Comptroller shall make such remittances to eligible municipalities, as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.). No such remittances shall be made until construction is completed and, in the case of a renovation or expansion, until the governing body of the municipality has certified that the renovation or expansion is completed.

C. Nothing in this section shall be construed as authorizing the pledging of the faith and credit of the Commonwealth of Virginia, or any of its revenues, for the payment of any bonds. Any appropriation made pursuant to this section shall be made only from sales tax revenues derived from the public facility for which bonds may have been issued to pay the cost, in whole or in part, of such public facility.

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

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

1. From January 1, 2000, through March 31, 2001, the tax rate on such food shall be three percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638, (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C

552 and D of § 58.1-638, and (iii) the revenue from the tax at the rate of one and one-half percent shall be  
553 used for general fund purposes.

554 2. From April 1, 2001, through March 31, 2002, the tax rate on such food shall be two and one-half  
555 percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue  
556 from the tax at the rate of one-half percent shall be distributed as provided in subsection A of  
557 § 58.1-638, (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in  
558 subsections B, C and D of § 58.1-638, and (iii) the revenue from the tax at the rate of one percent shall  
559 be used for general fund purposes.

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

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

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

573 C. As used in this section, "food purchased for human consumption" has the same meaning as "food"  
574 defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted  
575 pursuant to that Act, except it shall not include seeds and plants which produce food for human  
576 consumption.

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

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

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

586 E. If the tax rate on food purchased for human consumption remains the same for the period January  
587 1, 2000, through March 31, 2001, and the subsequent twelve-month period beginning on April 1, 2001,  
588 or with respect to any consecutive twelve-month periods beginning on and after April 1, 2001, the tax  
589 rate on such food shall remain the same unless none of the conditions described in subsection D have  
590 occurred, in which event the tax rate on food purchased for human consumption for the immediately  
591 following twelve-month period shall be equal to the next lowest tax rate listed in subsection A.

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

598 *G. The additional one-half of one percent increase effective July 1, 2003, in the taxes imposed*  
599 *pursuant to §§ 58.1-603 and 58.1-604 shall not apply to food purchased for human consumption.*

600 *H. The taxes imposed pursuant to § 58.1-604.4 shall not apply to food purchased for human*  
601 *consumption.*

602 § 58.1-614. Vending machine sales.

603 A. ~~Notwithstanding the provisions of §§ 58.1-603 and 58.1-604, whenever~~ *For all taxes pursuant to*  
604 *this chapter, whenever* a dealer makes sales of tangible personal property through vending machines, or  
605 in any other manner making collection of the tax impractical, as determined by the Tax Commissioner,  
606 such dealer shall be required to report his wholesale purchases for sale at retail from vending machines  
607 and shall be required to remit an amount ~~based on four and one-half percent of such wholesale~~  
608 ~~purchases equal to such wholesale purchases multiplied by the sales and use tax rate applicable~~  
609 ~~pursuant to this chapter.~~

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

613 C. ~~The provisions of subsections A and B of this section~~ *subsection A 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.

~~DC. Notwithstanding any other provisions in this section or § 58.1-628, when~~ When the Tax Commissioner determines that it is impractical to collect the tax in the manner provided by ~~those~~ sections subsection A or subsection B, 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.

ED. 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.

§ 58.1-626. Absorption of tax prohibited.

No person shall advertise or hold out to the public, directly or indirectly, that he will absorb all or any part of the sales or use tax, or that he will relieve the purchaser, consumer, or lessee of the payment of all or any part of such tax, except as may be authorized under ~~§ 58.1-627 or § 58.1-628~~ § 58.1-628.1. Any person who violates this section shall be guilty of a Class 2 misdemeanor.

§ 58.1-628.1. *Adjustment to the rate of tax imposed under this chapter.*

*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 that was from sales at prices of eleven cents or more.*

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

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

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

2. 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 Port Fund.

a. The Commonwealth Port Fund shall be established on the books of the Comptroller and the 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 such funds shall remain in the Fund and be credited to it. Funds may be paid to any authority, locality or commission for the purposes hereinafter specified.

b. The amounts allocated pursuant to this section shall be allocated by the Commonwealth 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 a 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

675 Airports Authority (MWAA), as follows:

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

682 Of the remaining amount:

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

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

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

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

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

699 b. The amounts allocated pursuant to this section shall be used to support the public transportation  
700 administrative costs and the costs borne by the locality for the purchase of fuels, lubricants, tires and  
701 maintenance parts and supplies for public transportation at a state share of eighty percent in 2002 and  
702 ninety-five percent in 2003 and succeeding years. These amounts may be used to support up to  
703 ninety-five percent of the local or nonfederal share of capital project costs for public transportation and  
704 ridesharing equipment, facilities, and associated costs. Capital costs may include debt service payments  
705 on local or agency transit bonds. The term "borne by the locality" means the local share eligible for  
706 state assistance consisting of costs in excess of the sum of fares and other operating revenues plus  
707 federal assistance received by the locality.

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

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

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

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

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

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

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

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

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

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

735 e. At least 73.5 percent of the Fund shall be distributed to each transit property in the same  
736 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

798 population of the entire county. If the school population of any city or of any town constituting a school  
799 division is increased by the annexation of territory since the last preceding school population census,  
800 such increase shall, for the purposes of this section, be added to the school population of such city or  
801 town as shown by the last such census and a proper reduction made in the school population of the  
802 county or counties from which the annexed territory was acquired.

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

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

820 *G. The revenue generated and collected from the one-half of one percent increase in the state sales*  
821 *and use tax, beginning July 1, 2003, pursuant to §§ 58.1-603 and 58.1-604, shall be paid into the state*  
822 *treasury to the credit of a special fund that is hereby created on the Comptroller's books under the*  
823 *name "Collections of Additional Sales and Use Taxes."*

824 *All revenue generated and collected from such increase shall be distributed by warrant of the*  
825 *Comptroller drawn on the Treasurer of Virginia as soon as practicable after the close of each month*  
826 *during which it was received into the state treasury. The revenue credited and distributed pursuant to*  
827 *this subsection shall be the gross revenue generated and collected from such one-half of one percent*  
828 *increase, less the applicable portion of any refunds to taxpayers.*

829 *All revenue distributed under this subsection shall be used for the purposes described in subsection*  
830 *D.*

831 *Such revenue shall be distributed as follows:*

832 *1. First, each county and city of the Commonwealth shall receive a distribution equal to one-third of*  
833 *the revenue generated and collected within its geographic boundaries from such increase. Such amount*  
834 *shall be distributed to the respective county or city in accordance with the same procedures for the*  
835 *collection of sales tax moneys pursuant to subsection E of § 58.1-605 and the same procedures for the*  
836 *collection of use tax moneys pursuant to subsections E and F of § 58.1-606. In any county wherein is*  
837 *situated any incorporated town constituting a school division, the county treasurer shall pay into the*  
838 *town treasury the proper proportionate amount received by him in the ratio that the school population*  
839 *of such town bears to the school population of the entire county.*

840 *2. Then, one-third of the revenue generated and collected from such increase shall be distributed to*  
841 *the counties and cities of this Commonwealth on a set per pupil amount, based on the latest actual*  
842 *adjusted average daily membership, and adjusted by the locality's composite index of ability to pay as*  
843 *set forth in the general appropriation act.*

844 *3. Finally, one-third of the revenue generated and collected from such increase shall be distributed*  
845 *to the counties and cities of the Commonwealth in accordance with subsections C and D.*

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

849 *§ 58.1-3833. County food and beverage tax.*

850 A. Any county is hereby authorized to levy a tax on food and beverages sold, for human  
851 consumption, by a restaurant, as such term is defined in subdivision 9 of § 35.1-1, not to exceed ~~eight~~  
852 ~~and one-half percent, when added to the state and local general sales and use tax, four percent~~ of the  
853 amount charged for such food and beverages. Such tax shall not be levied on food and beverages sold  
854 through vending machines or by any person described in subdivisions 1, 2, 3, and 5 of § 35.1-25, as  
855 well as nonprofit cafeterias in public schools, nursing homes, and hospitals. Grocery stores and  
856 convenience stores selling prepared foods ready for human consumption at a delicatessen counter shall  
857 be subject to the tax, for that portion of the grocery store or convenience store selling such items.

858 This tax shall be levied only if the tax is approved in a referendum within the county which shall be  
859 held in accordance with § 24.2-684 and initiated either by a resolution of the board of supervisors or on

the filing of a petition signed by a number of registered voters of the county equal in number to ten percent of the number of voters registered in the county, as appropriate on January 1 of the year in which the petition is filed with the court of such county. The clerk of the circuit court shall publish notice of the election in a newspaper of general circulation in the county once a week for three consecutive weeks prior to the election. If the voters affirm the levy of a local meals tax, the tax shall be effective in an amount and on such terms as the governing body may by ordinance prescribe. If such resolution of the board of supervisors or such petition states for what projects and/or purposes the revenues collected from the tax are to be used, then the question on the ballot for the referendum shall include language stating for what projects and/or purposes the revenues collected from the tax are to be used.

The term "beverage" as set forth herein shall mean alcoholic beverages as defined in § 4.1-100 and nonalcoholic beverages served as part of a meal. The tax shall be in addition to the sales tax currently imposed by the county pursuant to the authority of Chapter 6 (§ 58.1-600 et seq.) of this title. Collection of such tax shall be in a manner prescribed by the governing body.

B. Notwithstanding the provisions of subsection A of this section, any county with a population of at least 70,000 but no more than 100,000, any county with a population of at least 17,910 but no more than 18,000, any county with a population of at least 34,000 but no more than 34,400, and any county having a county manager plan of government are hereby authorized to levy a tax on food and beverages sold for human consumption by a restaurant, as such term is defined in § 35.1-1 and as modified in subsection A above and subject to the same exemptions, not to exceed four percent of the amount charged for such food and beverages, provided that the governing body of the respective county holds a public hearing before adopting a local food and beverage tax, and the governing body by unanimous vote adopts such tax by local ordinance. The tax shall be effective in an amount and on such terms as the governing body may by ordinance prescribe.

C. Nothing herein contained shall affect any authority heretofore granted to any county, city or town to levy a meals tax. The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax levied under this section, mutatis mutandis. All food and beverage tax collections and all meals tax collections shall be deemed to be held in trust for the county, city or town imposing the applicable tax.

D. No county which has heretofore adopted an ordinance pursuant to subsection A of this section shall be required to submit an amendment to its meals tax ordinance to the voters in a referendum.

E. Notwithstanding any other provision of this section, no locality shall levy any tax under this section upon alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

**2. That the following is the Northern Virginia Regional Transportation Program Bond Act of 2002.**

*§ 1. Title. This act shall be known and may be cited as the "Northern Virginia Regional Transportation Program Bond Act of 2002."*

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

*"Authority" means the Northern Virginia Transportation Authority as created under the Code of Virginia.*

*"Program" means the Northern Virginia Regional Transportation Program.*

*"Project" or "Projects" means a transportation project or projects included in the Program.*

*§ 3. The Program shall consist of the following Projects: Dulles Corridor Transit (locality share), I-66 Improvements and Rail Extension, I-95/I-395 Improvements and Transit Improvements, Route 1 Improvements, Route 28 Improvements, I-495 Improvements and Transit Improvements, Fairfax County Parkway, Tri-County/Loudoun Parkway, VRE New Railcar Purchase, Route 234 Bypass/Route 659 Relocated, Metrorail Infrastructure Replacement Program, Secondary System Improvements (including unpaved roads), Urban System Improvements, Route 7 Improvements Fairfax, Route 7 Improvements Loudoun, Regional Transit Capital, Route 50/Columbia Pike Improvements, Columbia Pike/Route 7 Transit Improvements, and Rail Safety 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 \$2,460,000,000 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 that comprise the Program, consisting of environmental and engineering studies, rights-of-way acquisition, improvements to all modes of transportation, acquisition, construction and related improvements. Such costs may include the payment of interest on the Bonds for a period during*

921 *construction and not exceeding one year after completion of construction of the Projects.*

922 *§ 5. The Projects, and the amount of bonds authorized to be issued for each such Project, are as*  
 923 *follows and constitute the Northern Virginia Regional Transportation Program:*

924 Projects	Bond amount
925	
926 Dulles Corridor Transit (locality share)	\$300,000,000
927	
928 I-66 Improvements and Rail Extension	\$300,000,000
929	
930 I-95/I-395 Improvements and Transit	
931	
932 Improvements	\$300,000,000
933	
934 Route 1 Improvements	\$150,000,000
935	
936 Route 28 Improvements	\$50,000,000
937	
938 I-495 Improvements and Transit Improvements	\$200,000,000
939	
940 Fairfax County Parkway	\$150,000,000
941	
942 Tri-County/Loudoun Parkway	\$100,000,000
943	
944 VRE New Railcar Purchase	\$50,000,000
945	
946 Route 234 Bypass/Route 659 Relocated	\$50,000,000
947	
948 Metrorail Infrastructure Replacement Program	\$200,000,000
949	
950 Secondary System Improvements (including	
951 unpaved roads)	\$150,000,000
952	
953 Urban System Improvements	\$90,000,000
954	
955 Route 7 Improvements Fairfax	\$75,000,000
956	
957 Route 7 Improvements Loudoun	\$75,000,000
958	
959 Regional Transit Capital	\$100,000,000
960	
961 Route 50/Columbia Pike Improvements	\$25,000,000
962	
963 Columbia Pike/Route 7 Transit Improvements	\$75,000,000
964	
965 Rail Safety Improvements	\$20,000,000
966	
967 Total	\$2,460,000,000
968	

969  
 970 *The Authority shall take such steps as are necessary for the Projects and Program to be constructed,*  
 971 *subject to it having sufficient funds to pay the costs for the construction of a Project or Projects, or any*  
 972 *part thereof, as such costs become due and payable. The Authority shall have the power to construct or*  
 973 *provide by contract for the construction of any Project or Projects and the Program, including the*  
 974 *power to purchase real and personal property for purposes of constructing and implementing the*  
 975 *Program.*

976 *Bond proceeds for Secondary System Improvements (including unpaved roads) shall be allocated to*  
 977 *those localities described in § 15.2-4819 of the Code of Virginia that receive allocations of funds (i)*  
 978 *pursuant to § 33.1-23.03:5 of the Code of Virginia or (ii) for secondary system highways pursuant to*



§ 33.1-23.4 of the Code of Virginia, and such bond proceeds shall be allocated pursuant to § 33.1-23.4 of the Code of Virginia. Bond proceeds allocated for Urban System Improvements shall be allocated pursuant to § 33.1-23.3 of the Code of Virginia to those localities described in § 15.2-4819 of the Code of Virginia, and the towns therein, that receive allocations of funds pursuant to § 33.1-23.3 of the Code of Virginia.

To the extent that the moneys deposited to the Special Fund Account of the Northern Virginia Transportation Authority pursuant to subsection D of § 58.1-604.4 of the Code of Virginia exceed the amount needed to pay annual debt service on bonds issued to support the Program Projects in any particular fiscal year, plus the amount needed in the fiscal year to pay all other costs to administer all debts or obligations issued pursuant to this act, the Authority shall allocate such funds subject to the following conditions: (i) first, up to fifteen percent of such funds shall be allocated to transit operational costs; (ii) then, any remaining funds shall be allocated to Program Projects provided that the Authority determines such allocations will materially advance the construction of such Program Projects; and (iii) finally, any remaining portion of such funds shall be allocated to fund other transit, primary, urban, or secondary projects in the counties and cities described in subsections A and B of § 58.1-604.4.

§ 6. The Authority is hereby authorized to borrow money at such rate or rates through the execution and issuance of notes for the same (hereinafter "anticipation notes" or "BANs"), but only in the following circumstances and under the following conditions:

a. In anticipation of the sale of the Bonds the issuance of which shall have been authorized and approved by the Authority, if the Authority shall deem it advisable to postpone the issuance of such Bonds; or

b. For the renewal of any anticipation notes (BANs) herein authorized.

§ 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. The proceeds of (a) Bonds the issuance of which has been anticipated by BANs, (b) refunding bonds and (c) refunding BANs and any funds provided by the General Assembly, or available from any other source, for the purpose, shall be used to pay such BANs, refunded bonds and refunded BANs.

§ 8. The Authority is hereby authorized to receive any other funds that may be made available to pay costs of the projects and to make available the same to the payment of the principal or purchase price of, and redemption premium, if any, and interest on, the Bonds authorized hereby.

§ 9. The terms and structure of each issue of the Bonds shall be determined by the Authority. The Bonds of each issue shall be dated, shall be issued in a principal amount (subject to the limitation as to the aggregate principal amount set forth in § 4), shall bear interest at such rate or rates, which may be fixed, adjustable, variable or a combination thereof, and may be determined by a formula or other method, shall mature at such time or times not exceeding thirty-five years after the issuance thereof, and may be made subject to purchase or redemption before their maturity or maturities, at such price or prices and under such terms and conditions, all as may be determined by the Authority. The Authority shall determine the form of the Bonds, whether the Bonds are certificated or uncertificated, and fix the authorized denomination or denominations of the Bonds and the place or places of payment of principal or purchase price of, and redemption premium, if any, and interest on, the Bonds, which may be at the office of the Authority or any bank or trust company within or without the Commonwealth. The principal or purchase price of, and redemption premium, if any, and interest on, the Bonds shall be made payable in lawful money of the United States of America. Each issue of the Bonds may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments of principal or purchase price of and redemption premium, if any, and interest on such Bonds. All the Bonds shall have and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth.

The Authority may sell the Bonds from time to time at public or private sale, by competitive bidding, negotiated sale or private placement, for such price or prices as it may determine to be in the best interests of the Authority.

§ 10. The Bonds and BANs shall be signed on behalf of the Authority by the chairman or vice-chairman of the Authority, or shall bear the facsimile signature of such officer. In the event that the Bonds or BANs shall bear the facsimile signature of the chairman or vice-chairman of the Authority, they shall be signed by such administrative assistant as the chairman of the Authority shall determine or any registrar/paying agent that may be designated by the Authority. In case any officer whose signature or a facsimile of whose signature appears on any Bonds or BANs shall cease to be such officer before the delivery of such Bonds or BANs, such signature or facsimile signature nevertheless shall be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

1040 § 11. *Refunding.* The Authority is hereby authorized to sell and issue, at one time or from time to  
1041 time, refunding bonds and BANs, to refund any or all of the Bonds and BANs, respectively, issued under  
1042 this act. Refunding bonds or BANs may be issued in a principal amount up to the amount necessary to  
1043 pay at maturity or redeem the Bonds and BANs to be refunded and pay all issuance costs and other  
1044 financing expenses of the refunding. Such refunding bonds and BANs may be issued whether or not the  
1045 Bonds or BANs to be refunded are then subject to redemption.

1046 § 12. *Authorized Investments.* Pending the application of the proceeds of the Bonds or BANs  
1047 (including refunding bonds and BANs) to the purpose for which they have been authorized and the  
1048 application of funds set aside for the purpose to the payment of Bonds or BANs, they may be invested  
1049 by the Authority in legal investments under the laws of the Commonwealth for public funds and sinking  
1050 funds, as the case may be. Whenever the Authority receives interest from the investment of the proceeds  
1051 of Bonds or any BANs, such interest shall become a part of the principal of the Bonds or any BANs and  
1052 shall be used in the same manner as required or permitted for principal of the Bonds or BANs.

1053 § 13. The Bonds authorized under § 4 may be issued without obtaining the consent of any  
1054 commission, office, department, board, council, bureau, agency or other persons or entities of the  
1055 Commonwealth or of any political subdivision of the Commonwealth, and without any proceedings or  
1056 the happening of conditions or things other than those proceedings, conditions or things that are  
1057 specifically required under this act. The Authority may issue such types of Bonds as it may determine  
1058 consistent with the provisions of §§ 4 and 5 of this act and subject to § 16 of this act, including, without  
1059 limitation, Bonds payable as to principal and interest from any one or more of the following sources: (i)  
1060 its revenues generally, including all amounts deposited into the Special Fund Account of the Northern  
1061 Virginia Transportation Authority pursuant to § 58.1-604.4 of the Code of Virginia; (ii) proceeds from  
1062 the sale of Bonds; (iii) payments under letters of credit, policies of bond insurance, guarantees or other  
1063 credit enhancements; (iv) any reserve or sinking funds created to secure such payment; or (v) other  
1064 available funds of the Authority.

1065 § 14. *Security for Bonds and BANs.* The proceeds of (i) Bonds the issuance of which has been  
1066 anticipated by BANs, (ii) refunding bonds and (iii) refunding BANs are hereby irrevocably pledged for  
1067 the payment of principal of and interest and any premium on such BANs or Bonds or BANs to be  
1068 refunded thereby.

1069 Any Bond authorized under this act may be issued pursuant to or secured by a trust indenture or by  
1070 a trust or other agreement with a corporate trustee, which may be any trust company or bank having  
1071 the powers of a trust company within or without the Commonwealth, or other agent for bondholders, or  
1072 any combination thereof. Any such trust indenture or other agreement may pledge or assign revenues,  
1073 fees, rents and other charges to be received and may contain provisions for protecting and enforcing the  
1074 rights and remedies of the bondholders as may be reasonable and proper and not in violation of law.  
1075 Such provisions may include covenants: (i) providing for the application of revenues and sale by the  
1076 Authority, or any trustees under any trust indenture or agreement, of any property upon default,  
1077 provided that in no case may any Project be subject to such sale; (ii) setting forth duties of the  
1078 Authority in relation to the acquisition, construction, maintenance, operation and insurance of any  
1079 property of the Authority and the amounts of fees, rents and other charges to be charged, but such  
1080 covenants may not provide fees, rents and other charges for use of any Project; (iii) providing for the  
1081 collection of revenues, fees, rents and other charges, and the custody, safeguarding and application of  
1082 all moneys of the Authority; (iv) providing for the creation of sinking funds and the creation and  
1083 maintenance of reserves; and (v) setting forth conditions or limitations with respect to the incurrence of  
1084 indebtedness or the granting of liens. Such trust indenture, trust or other agreement may set forth the  
1085 rights and remedies of the bondholders and of the trustee or other agent for bondholders and may  
1086 restrict the individual right of action by bondholders.

1087 In addition, the Authority may grant security interests and other liens on its property, including its  
1088 accounts receivable, to secure Bonds. All pledges of revenues of the Authority for payment of bonds  
1089 shall be valid and binding from the time when the pledge is made, and the revenues pledged and  
1090 thereafter received by the Authority shall be subject immediately to the lien of such pledge without any  
1091 physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as  
1092 against all parties having claims of any kind in tort, contract or otherwise against the Authority,  
1093 irrespective of whether such parties have notice thereof. The Authority may also provide for the filing of  
1094 any security interest or other lien, or any financing statement or other instrument, necessary or  
1095 desirable to create, perfect or evidence any lien created pursuant to this act.

1096 It shall be lawful for any bank or trust company within or without the Commonwealth to serve as  
1097 depository of the proceeds of Bonds or of other revenues of the Authority and to furnish indemnifying  
1098 bonds or to pledge such securities as may be required by the Authority.

1099 § 15. Except to the extent that the rights herein given may be restricted by such trust indenture or  
1100 trust or other agreement, any holder of Bonds or coupons authorized under this act and the trustee or  
1101 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 act or by such trust indenture, trust or other agreement, with respect to such Bonds or coupons, to be performed by the Authority or by any officer or agent thereof, including the fixing, charging and collecting of revenues, fees, rents and other charges.

§ 16. No member, officer, employee or agent of the Authority or any person executing Bonds of the Authority authorized under this act shall be liable personally on the Bonds by reason of their issuance or execution. Bonds of the Authority authorized under this act shall not be a debt or pledge of the full faith and credit of the Commonwealth or any political subdivision thereof other than the Authority and shall so state on their face. Neither the Commonwealth nor any political subdivision thereof other than the Authority shall be obligated to pledge taxing power or appropriate or otherwise be liable for payment of such Bonds of the Authority, nor shall such Bonds be payable out of any funds or properties of the Commonwealth or any political subdivision thereof other than those of the Authority. Bonds of the Authority authorized under this act are declared to be issued for an essential public and governmental purpose.

§ 17. Expenses. All expenses incurred under this act in connection with issuance of the Bonds shall be paid from the proceeds of such Bonds, or any refunding bonds or BANs, or from any other available funds as the Authority may determine.

§ 18. Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies and associations, all national banks and trust companies, and savings institutions, including savings and loan associations, in the Commonwealth, and all executors, administrators, trustees and other fiduciaries, both individual or corporate, may properly and legally invest funds within their control. Such Bonds are hereby made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of Bonds or obligations is now or may hereafter be authorized by law.

§ 19. Exemption of interest from tax. The Bonds and BANs issued under the provisions of this act, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be exempt from taxation by the Commonwealth and by any political subdivision thereof.

§ 20. If any part of this act or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, such holding shall not affect the validity of the remainder of the provisions or applications of the act, which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

**3. That it shall be the duty of the regular election officers of this Commonwealth conducting the election directed by law to be held on Tuesday, November 5, 2002, at the places appointed for holding the same, to open a poll on such day and take the sense of the qualified voters of the Commonwealth upon the ratification or rejection of a one-half of one percent increase in the sales and use tax under §§ 58.1-603 and 58.1-604. Notice of the referendum shall be given, the ballots shall be prepared, distributed and voted, and the results thereof ascertained and certified, in accordance with Title 24.2 of the Code of Virginia, relating to special elections. The State Board of Elections shall comply with § 30-19.10 of the Code of Virginia and shall cause to be sent to the electoral boards of each county and city sufficient copies of the question contained herein for the officers of election to post in each polling place on election day.**

The ballot shall contain the following question:

**"QUESTION: Shall an additional sales and use tax of one-half of one percent be imposed in all jurisdictions of the Commonwealth beginning July 1, 2003, in accordance with § 58.1-603 and § 58.1-604 of the Code of Virginia, with the revenues distributed to counties and cities solely for expenses incurred in the operation of public schools and capital projects for public schools as provided in Chapter ( . . ) of the Acts of Assembly of 2002?"**

The State Board of Elections shall without delay make out and transmit to the Governor an official copy of the report of the whole number of votes cast at the election for and against the referendum question, certified by it. The expenses incurred in conducting this election shall be defrayed as in the case of election of members of the General Assembly.

**4. That it shall be the duty of the regular election officers of the counties and cities described in subsections A and B of § 58.1-604.4 conducting the election directed by law to be held on Tuesday, November 5, 2002, at the places appointed for holding the same, to open a poll on such day and take the sense of the qualified voters of such counties and cities upon the ratification or rejection of a one-half of one percent sales and use tax pursuant to subsections A and B of § 58.1-604.4. Notice of the referendum shall be given, the ballots shall be prepared, distributed and voted, and**

1163 the results thereof ascertained and certified, in accordance with Title 24.2 of the Code of Virginia,  
1164 relating to special elections.

1165 The ballot shall contain the following question:  
1166 "QUESTION: Shall an additional sales and use tax of one-half of one percent be imposed in  
1167 Arlington County, Fairfax County, Loudoun County, Prince William County, the City of  
1168 Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of  
1169 Manassas Park beginning July 1, 2003, pursuant to subsections A and B of § 58.1-604.4 of the  
1170 Code of Virginia, with the revenues to be used solely for regional transportation projects and  
1171 programs as specified in Chapter (. . .) of the Acts of Assembly of 2002?"

1172 The State Board of Elections shall cause to be sent to the electoral boards of such counties and  
1173 cities sufficient copies of the full text of this act and the question contained herein for the officers  
1174 of election to post in each polling place on election day. The State Board of Elections shall without  
1175 delay make out and transmit to the Governor an official copy of the report of the whole number  
1176 of votes cast at the election for and against the referendum question, certified by it. The expenses  
1177 incurred in conducting this election shall be defrayed as in the case of election of members of the  
1178 General Assembly.

1179 5. That the Department of Taxation shall promulgate all necessary and reasonable regulations to  
1180 govern the administration of sales and use taxes pursuant to the provisions of this act, including,  
1181 but not limited to, a bracket system for the collection of taxes in the Commonwealth on  
1182 transactions of five dollars or less.

1183 6. That any moneys distributed to the Northern Virginia Transportation Authority from a one-half  
1184 of one percent sales and use tax pursuant to subsections A and B of § 58.1-604.4 shall not be used  
1185 to calculate or reduce the share of federal, state, or local revenues or funds otherwise available to  
1186 the localities in the counties and cities described in subsections A and B of § 58.1-604.4, nor shall  
1187 they be used to calculate or reduce any allocation of revenues or funds made pursuant to Title  
1188 33.1 of the Code of Virginia. Such share or allocation of revenues or funds that shall not be  
1189 reduced includes, but is not limited to, state basic aid payments.

1190 7. That revenues distributed to counties and cities from a one-half of one percent increase in the  
1191 sales and use tax under §§ 58.1-603 and 58.1-604 shall not be used to calculate or reduce the share  
1192 of federal, state, or local revenues or funds otherwise available to such counties and cities,  
1193 including, but not limited to, state basic aid payments.

1194 8. That no city or county described in subsections A and B of § 58.1-604.4 may reduce its local  
1195 contribution to Metrorail capital improvements below the amount it contributed for such  
1196 improvements in its operating year that began in calendar year 2001.

1197 9. That the provisions of this act shall not require any county governing body that has heretofore  
1198 adopted an ordinance providing for a local food and beverage tax pursuant to § 58.1-3833 or  
1199 § 58.1-3842 to (i) submit an amendment to its meals tax ordinance to the voters in a referendum,  
1200 (ii) unanimously adopt an amendment to its meals tax ordinance, or (iii) hold a public hearing to  
1201 reflect in its local meals tax ordinance the provisions of this act.

1202 10. That the third enactment of this act shall be effective on July 1, 2002. The provisions of this  
1203 act relating to a one-half of one percent increase in the sales and use tax under §§ 58.1-603 and  
1204 58.1-604, including, but not limited to, the seventh enactment of this act, shall be effective on July  
1205 1, 2003, and only if a majority of those voting at the election and upon the question described in  
1206 the third enactment of this act vote in the affirmative upon such question.

1207 11. That the fourth enactment of this act shall be effective on July 1, 2002. The provisions of this  
1208 act relating to a one-half of one percent sales and use tax pursuant to subsections A and B of  
1209 § 58.1-604.4, including, but not limited to, the second, sixth, eighth, and twelfth enactments of this  
1210 act, shall be effective on July 1, 2003, and only if a majority of those voting at the election and  
1211 upon the question described in the fourth enactment of this act vote in the affirmative upon such  
1212 question. For purposes of this enactment, "a majority of those voting at the election" means a  
1213 majority of those voting in the entire region constituted by the counties and cities described in the  
1214 fourth enactment of this act, and does not require a majority of those voting in any individual  
1215 locality.

1216 12. That Article 22 (§§ 58.1-540 through 58.1-549) of Chapter 3 of Title 58.1 of the Code of  
1217 Virginia is repealed effective July 1, 2003, provided that the question described in the fourth  
1218 enactment of this act is affirmed in accordance with the respective vote required on such question  
1219 under this act.

1220 13. That §§ 58.1-627 and 58.1-628 are repealed effective July 1, 2003, provided that either of the  
1221 referendum questions set forth in this act is affirmed in accordance with the respective vote  
1222 required on such question under this act.

1223 14. That if any clause, sentence, paragraph, section, or part of this act or the application thereof  
1224 to any person, entity, or circumstance is adjudged invalid by any court of competent jurisdiction

1225 such judgment shall not affect the validity of the remainder hereof but shall be confined to the  
1226 clause, sentence, paragraph, section, or part hereof directly involved in the controversy in which  
1227 such judgment shall have been rendered, and to this end the provisions of this act are severable.