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SENATE BILL NO. 170

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations
on February 26, 2002)

(Patron Prior to Substitute—Senator Colgan)

A *BILL to amend and reenact §§ 33.1-221.1:3, 58.1-540, 58.1-548, 58.1-602, 58.1-605, 58.1-606, 58.1-611.1, 58.1-614, 58.1-626, 58.1-815.1, and 58.1-3833 of the Code of Virginia; to amend and reenact § 2 of Chapter 391 of the Acts of Assembly of 1993, as amended by Chapters 470 and 597 of the Acts of Assembly of 1994, Chapters 740 and 761 of the Acts of Assembly of 1998, and Chapter 538 of the Acts of Assembly of 1999; to amend the Code of Virginia by adding sections numbered 58.1-604.4, and 58.1-628.1; and to repeal §§ 58.1-549, 58.1-627, and 58.1-628 of the Code of Virginia, relating to local income taxes and 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, and dedicating revenues from such taxes for transportation projects and education purposes for such counties and cities.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-221.1:3, 58.1-540, 58.1-548, 58.1-602, 58.1-605, 58.1-606, 58.1-611.1, 58.1-614, 58.1-626, 58.1-815.1, and 58.1-3833 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 58.1-604.4, and 58.1-628.1 as follows:

§ 33.1-221.1:3. Northern Virginia Transportation District Program.

A. The General Assembly declares it to be in the public interest that the economic development needs and economic growth potential of Northern Virginia be addressed by a special transportation program to provide for the costs of providing an adequate, modern, safe and efficient transportation network in Northern Virginia, which shall be known as the Northern Virginia Transportation District Program (the Program), including, without limitation, environmental and engineering studies, rights-of-way acquisition, construction, improvements to all modes of transportation, and financing costs. The Program consists of the following projects: the Fairfax County Parkway, Route 234 Bypass/Route 659 Relocated, Metro Capital Improvements, including the Franconia-Springfield Metrorail Station and new rail car purchases, Route 7 improvements in Loudoun County and Fairfax County, the Route 50/Courthouse Road interchange improvements in Arlington County, the Route 28/Route 625 interchange improvements in Loudoun County, Metrorail capital improvements attributable to the City of Alexandria including the King Street Metrorail Station access, Metrorail capital improvements attributable to Arlington County, including Ballston Station improvements, Route 15 safety improvements in Loudoun County, Route 1/Route 123 interchange improvements in Prince William County, Lee Highway improvements in the City of Fairfax, Route 123 improvements in Fairfax County, Telegraph Road improvements in Fairfax County, Route 1/Route 234 interchange improvements in Prince William County, Potomac-Rappahannock Transportation Commission bus replacement program, and Dulles Corridor Enhanced Transit program (locality share), I-66 improvements and rail extension (I-495 to Route 15), I-95/I-395 improvements and transit improvements, Route 1 improvements, Route 28 improvements, I-495 improvements and transit improvements, Tri-County/Loudoun Parkway, Metrorail infrastructure replacement program (Virginia locality share), urban system improvements, secondary system improvements (including unpaved roads), Route 7 improvements (Loudoun County), Route 7 improvements (Fairfax County), Columbia Pike/Route 7 Transit improvements, rail safety improvements, and VRE new railcar purchase.

B. Allocations to this Program from the Northern Virginia Transportation District Fund established by § 58.1-815.1 shall be made annually by the Commonwealth Transportation Board for the creation and enhancement of a safe, efficient transportation system connecting the communities, businesses, places of employment, and residences of the Commonwealth, thereby enhancing the economic development potential, employment opportunities, mobility and quality of life in Virginia.

C. Except in the event that the Northern Virginia Transportation District Fund is insufficient to pay for the costs of the Program, allocations to the Program shall not diminish or replace allocations made from other sources or diminish allocations to which any district, system, or locality would be entitled under other provisions of this title, but shall be supplemental to other allocations to the end that transportation improvements in the Northern Virginia Transportation District may be accelerated and augmented. Allocations under this subsection shall be limited to projects specified in § 33.1-268 (2) (s).

D. The Commonwealth Transportation Board may expend such funds from all sources as may be

60 lawfully available to initiate the Program and to support bonds and other obligations referenced in
61 subsection E of this section.

62 E. The Commonwealth Transportation Board is authorized to receive, dedicate or use first from (i)
63 revenues received from the Northern Virginia Transportation District Fund, (ii) to the extent required,
64 funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the
65 highway construction district in which the project or projects to be financed are located or to the city or
66 county in which the project or projects to be financed are located, (iii) to the extent required, legally
67 available revenues of the Transportation Trust Fund, and (iv) such other funds which may be
68 appropriated by the General Assembly for the payment of bonds or other obligations, including interest
69 thereon, issued in furtherance of the Program. No such bond or other obligations shall pledge the full
70 faith and credit of the Commonwealth.

71 § 58.1-540. Levy of the tax.

72 A. Any county having a population of more than 500,000, as determined by the 1980 U. S. Census,
73 an county or city adjacent thereto, and any city contiguous to such an adjacent county or city, or any
74 city with a population of at least 265,000, or city within the Eighth Planning District established
75 pursuant to the Regional Cooperation Act (§ 15.2-4200 et seq.) is hereby authorized to levy a local
76 income tax at any increment of one-quarter percent up to a maximum rate of one-half percent upon the
77 Virginia taxable income as determined in § 58.1-322 for an individual, § 58.1-361 for a fiduciary of an
78 estate or trust, or § 58.1-402 for a corporation, for each taxable year of every resident of such county or
79 city or corporation having income from sources within such county or city, subject to the limitations of
80 subsection B of this section. The same rate shall apply to individuals, fiduciaries and corporations.

81 B. The authority to levy a local income tax as provided in subsection A may be exercised by a
82 county or city governing body only if approved in a referendum within the county or city. The
83 referendum shall be held in accordance with § 24.2-684. The referendum may be initiated either by a
84 resolution of the governing body of the county or city or on the filing of a petition signed by a number
85 of registered voters of the county or city equal in number to ten percent of the number of voters
86 registered in the county or city on January 1 of the year in which the petition is filed with the circuit
87 court of such county or city. The clerk of the ~~circuit court~~ governing body of the locality wherein the
88 referendum is to be conducted shall publish notice of the election in a newspaper of general circulation
89 in the county or city once a week for three consecutive weeks prior to the election. The ballot used shall
90 be printed to read as follows:

91 "Shall the governing body of (...name of county or city...) have the authority to levy a local income
92 tax of up to one percent for transportation purposes (...specify the maximum increment of the proposed
93 levy in any increment of one-quarter percent but that levy shall not exceed one-half percent...) for public
94 education purposes in accordance with § 58.1-540 of the Code of Virginia?

95 ☐ Yes

96 ☐ No"

97 If the voters by a majority vote approve the authority of the local governing body to levy a local
98 income tax, the tax may be imposed by the adoption of an ordinance by the governing body of the
99 county or city in accordance with general or special law, and the tax may be thereafter enacted,
100 modified or repealed as any other tax the governing body is empowered to levy subject only to the
101 limitations herein. No ordinance levying a local income tax shall be repealed unless and until all debts
102 or other obligations of the county or city to which such revenues are pledged or otherwise committed
103 have been paid or provision made for payment.

104 § 58.1-548. Disposition of revenues; costs of administration.

105 A. All local income tax revenues collected by the Tax Commissioner pursuant to this article shall be
106 paid into the General Fund of the state treasury.

107 B. Such revenues shall be transferred monthly by the Comptroller to a special fund entitled
108 "Collections of Local Income Taxes," upon certification of such amounts by the Tax Commissioner.

109 C. As soon as practicable after the last day of each calendar quarter, the Comptroller shall pay over
110 and distribute to each county and city the local income tax revenues to be estimated by the Tax
111 Commissioner. The Tax Commissioner shall reconcile such estimates during the month following the
112 close of the fiscal year for those returns on file for the preceding taxable year.

113 D. The direct costs of state administration of the local income tax as certified to the Comptroller by
114 the Department of Taxation shall be deducted on a prorated basis from the distributions to each county
115 and city under subsection C of this section. In determining each county's or city's prorated share of
116 administrative costs, the Comptroller shall apportion the total administrative costs in the ratio which the
117 revenues of each county or city bear to the total local income tax revenues distributed. The direct costs
118 for local administration of the local income tax shall be paid entirely from the local revenues of the
119 county or city.

120 E. All revenues distributed to a county or city under subsection C of this section shall be applied and
121 expended for ~~transportation~~ education purposes; including, without limitation, construction,

administration, operation, improvement, maintenance and financing of transportation facilities. "Education purposes" is limited to construction of, renovation of, technology for, and debt service for public schools.

Any county or city that levies a local income tax under this article shall not reduce the total amount of its annual general fund appropriations, exclusive of the revenues derived from the tax levied under this article, for ~~transportation~~ education purposes below the total amount appropriated for those purposes in the fiscal year preceding the adoption of the ordinance levying the tax.

Revenues derived by a county or city from the local income tax levied under this article shall be in addition to those allocated to the county or city from state ~~transportation~~ education funds, which allocations shall not be reduced as a result of any revenues received hereunder *and which shall not be used to calculate or reduce the share of state or federal revenues otherwise available to such county or city, including, but not limited to, state basic aid payments.*

F. If any revenues distributed to a county or city under subsection C of this section are applied or expended for any transportation facilities under the control and jurisdiction of any state agency, board, commission or authority, such transportation facilities shall be constructed, operated, administered, improved and maintained in accordance with laws, rules, regulations, policies and procedures governing said state agency, board, commission or authority; provided, however, that in the event these revenues, or a portion thereof, are expended for improving or constructing highways in a county which is subject to the provisions of § 33.1-75.3, such expenditures shall be undertaken in the manner prescribed in that statute.

§ 58.1-602. Definitions.

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

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

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

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

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

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

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

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

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

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

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

183 America.

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

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

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

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

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

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

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

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

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

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

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

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

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

241 "Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in
242 the form of tangible personal property or services taxable under this chapter, and shall include any such
243 transaction as the Tax Commissioner upon investigation finds to be in lieu of a sale. All sales for resale
244 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 certificate of registration, or the lack of a place of business in which to keep records, or the lack of adequate records, or because such persons are minors or transients, or because such persons are engaged in essentially service businesses, or for any other reason there is likelihood that the Commonwealth will lose tax funds due to the difficulty of policing such business operations. The Tax Commissioner is authorized to promulgate regulations requiring vendors of or sellers to such persons to collect the tax imposed by this chapter on the cost price of such tangible personal property to such persons and may refuse to issue certificates of registration to such persons.

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

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

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

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

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

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

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

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

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

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

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

314 "Video programming" means video and/or information programming provided by or generally
315 considered comparable to programming provided by a cable operator including, but not limited to,
316 Internet service.

317 § 58.1-604.4. *One-half of one percent sales tax in certain counties and cities.*

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

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

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

331 D. *All taxes paid to the Tax Commissioner pursuant to this section, less the applicable portion of*
332 *any refunds to taxpayers, shall be deposited into the Northern Virginia Transportation Fund pursuant to*
333 *§ 58.1-815.1.*

334 § 58.1-605. To what extent and under what conditions cities and counties may levy local sales taxes;
335 collection thereof by Commonwealth and return of revenue to each city or county entitled thereto.

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

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

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

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

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

364 F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in
365 any month for the preceding month, the Comptroller shall draw his warrant on the Treasurer of Virginia
366 in the proper amount in favor of each city or county entitled to the monthly return of its local sales tax
367 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 under this section may do so in the manner following:

1. If the city or county has previously imposed the local sales tax authorized by § 58.1-605, the local use tax may be imposed by the council or governing body by the adoption of a resolution by a majority of all the members thereof, by a recorded yea and nay vote, stating its purpose and referring to this section, and providing that the local use tax shall become effective on the first day of a month at least sixty days after the adoption of the resolution. A certified copy of such resolution shall be forwarded to

429 the Tax Commissioner so that it will be received within five days after its adoption. The resolution
430 authorized by this paragraph may be adopted in the manner stated notwithstanding any other provision
431 of law, including any charter provision.

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

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

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

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

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

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

471 § 58.1-611.1. Rate of tax on sales of food purchased for human consumption; Food Tax Reduction
472 Program.

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

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

481 2. From April 1, 2001, through March 31, 2002, the tax rate on such food shall be two and one-half
482 percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue
483 from the tax at the rate of one-half percent shall be distributed as provided in subsection A of
484 § 58.1-638, (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in
485 subsections B, C and D of § 58.1-638, and (iii) the revenue from the tax at the rate of one percent shall
486 be used for general fund purposes.

487 3. From April 1, 2002, through March 31, 2003, the tax rate on such food shall be two percent of
488 the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the
489 tax at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638, (ii) the
490 revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C and

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

4. On and after April 1, 2003, the tax rate on such food shall be one and one-half 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 and (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C and D of § 58.1-638.

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

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

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

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

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

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

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

G. The taxes imposed pursuant to § 58.1-604.4 shall not apply to food purchased for human consumption.

§ 58.1-614. Vending machine sales.

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

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

~~CB. 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.

552 No person shall advertise or hold out to the public, directly or indirectly, that he will absorb all or
 553 any part of the sales or use tax, or that he will relieve the purchaser, consumer, or lessee of the payment
 554 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.
 555 Any person who violates this section shall be guilty of a Class 2 misdemeanor.

556 § 58.1-628.1. *Adjustment to the rate of tax imposed under this chapter.*

557 *If a dealer can show to the satisfaction of the Tax Commissioner that more than eighty-five percent*
 558 *of the total dollar volume of his gross taxable sales during the taxable month was from individual sales*
 559 *at prices of ten cents or less each and that he was unable to adjust his prices in such manner as to*
 560 *prevent the economic incidence of the sales tax from falling on him, the Tax Commissioner shall*
 561 *determine the proper tax liability of the dealer based on that portion of the dealer's gross taxable sales*
 562 *that was from sales at prices of eleven cents or more.*

563 § 58.1-815.1. Northern Virginia Transportation District Fund.

564 A. There is hereby created in the Department of the Treasury a special nonreverting fund which shall
 565 be a part of the Transportation Trust Fund and which shall be known as the Northern Virginia
 566 Transportation District Fund, consisting of transfers pursuant to § 58.1-816 of annual collections of the
 567 state recordation taxes attributable to the Cities of Alexandria, Fairfax, Falls Church, Manassas, and
 568 Manassas Park and the Counties of Arlington, Fairfax, Loudoun, and Prince William; however, this
 569 dedication shall not affect the local recordation taxes under §§ 58.1-802 B and 58.1-814. *The Fund shall*
 570 *also consist of transfers pursuant to § 58.1-604.4.* The Fund shall also include any public rights-of-way
 571 use fees appropriated by the General Assembly; any state or local revenues, including but not limited to,
 572 any funds distributed pursuant to §§ 33.1-23.3, 33.1-23.4 or § 33.1-23.5:1, which may be deposited into
 573 the Fund pursuant to a contract between a jurisdiction participating in the Northern Virginia
 574 Transportation District Program and the Commonwealth Transportation Board; and any other funds as
 575 may be appropriated by the General Assembly from time to time and designated for this Fund and all
 576 interest, dividends and appreciation which may accrue thereto. Any moneys remaining in the Fund at the
 577 end of a biennium shall not revert to the general fund, but shall remain in the Fund, subject to the
 578 determination by the Commonwealth Transportation Board *or the Northern Virginia Transportation*
 579 *Authority* that a Category 2, 3, ~~or 4,~~ *or 5* project or projects may be funded.

580 B. Allocations from this Fund may be paid (i) to any authority, locality or commission for the
 581 purposes of paying the costs of the Northern Virginia Transportation District Program which consists of
 582 the following: the Fairfax County Parkway, Route 234 Bypass/*Route 659 Relocated*, Metro Capital
 583 Improvements, including the Franconia-Springfield Metrorail Station and new rail car purchases, Route 7
 584 improvements in Loudoun County and Fairfax County, Route 50/Courthouse Road interchange
 585 improvements in Arlington County, the Route 28/Route 625 interchange improvements in Loudoun
 586 County, Metrorail capital improvements attributable to the City of Alexandria, including the King Street
 587 Metrorail station access, Metrorail capital improvements attributable to Arlington County, including
 588 Ballston Station improvements, Route 15 safety improvements in Loudoun County, Route 1/Route 123
 589 interchange improvements in Prince William County, Lee Highway improvements in the City of Fairfax,
 590 Route 123 improvements in Fairfax County, Telegraph Road improvements in Fairfax County, Route
 591 1/Route 234 interchange improvements in Prince William County, Potomac-Rappahannock
 592 Transportation Commission bus replacement program, ~~and Dulles Corridor Enhanced Transit program~~
 593 *Program (locality share), I-66 improvements and rail extension (I-495 to Route 15), I-95/I-395*
 594 *improvements and transit improvements, Route 1 improvements, Route 28 improvements, I-495*
 595 *improvements and transit improvements, Tri-County/Loudoun Parkway, Metrorail infrastructure*
 596 *replacement program (Virginia locality share), urban system improvements, secondary system*
 597 *improvements (including unpaved roads), Route 7 improvements (Loudoun County), Route 7*
 598 *improvements (Fairfax County), Columbia Pike/Route 7 Transit improvements, rail safety improvements,*
 599 *and VRE new railcar purchase* and (ii) for Category 4 5 projects as provided in § 2 of the act or acts
 600 authorizing the issuance of Bonds for the Northern Virginia Transportation District Program.

601 C. On or before July 15, 1994, \$19 million shall be transferred to the Fund. Such transfer shall be
 602 made by the issuance of a treasury loan at no interest in the amount of \$19 million in the event such an
 603 amount is not included for the Fund in the general appropriation act enacted by the 1994 Session of the
 604 General Assembly. Such treasury loan shall be repaid from the Commonwealth's portion of the state
 605 recordation tax imposed by Chapter 8 (§ 58.1-800 et seq.) of Title 58.1 designated for the Fund by this
 606 section and § 58.1-816.

607 § 58.1-3833. County food and beverage tax.

608 A. Any county is hereby authorized to levy a tax on food and beverages sold, for human
 609 consumption, by a restaurant, as such term is defined in subdivision 9 of § 35.1-1, not to exceed ~~eight~~
 610 ~~and one-half percent, when added to the state and local general sales and use tax,~~ *four percent* of the
 611 amount charged for such food and beverages. Such tax shall not be levied on food and beverages sold
 612 through vending machines or by any person described in subdivisions 1, 2, 3, and 5 of § 35.1-25, as
 613 well as nonprofit cafeterias in public schools, nursing homes, and hospitals. Grocery stores and

convenience stores selling prepared foods ready for human consumption at a delicatessen counter shall be subject to the tax, for that portion of the grocery store or convenience store selling such items.

This tax shall be levied only if the tax is approved in a referendum within the county which shall be 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 § 2 of Chapter 391 of the Acts of Assembly of 1993, as amended by Chapters 470 and 597 of the Acts of Assembly of 1994, Chapters 740 and 761 of the Acts of Assembly of 1998, and Chapter 538 of the Acts of Assembly of 1999, is amended and reenacted as follows:

§ 2. The Commonwealth Transportation Board is hereby authorized, by and with the consent of the Governor, to issue, pursuant to the provisions of §§ 33.1-267 through 33.1-295, at one time or from time to time, bonds of the Commonwealth to be designated "Commonwealth of Virginia Transportation Contract Revenue Bonds, Series", in an aggregate principal amount not exceeding ~~\$471,200,000~~ \$2,796,200,000 to finance the cost of the projects plus an amount for the issuance costs, capitalized interest, reserve funds, and other financing expenses (the "Bonds"); *provided, however, that (i) in the fiscal year ending July 1, 2003, the total principal amount of Category 4 bonds that may be issued shall not exceed \$100 million, (ii) in the fiscal year ending July 1, 2004, the total principal amount of additional Category 4 bonds that may be issued shall not exceed \$100 million, and (iii) in each fiscal year thereafter the total principal amount of additional Category 4 bonds that may be issued shall not exceed \$200 million.* The proceeds of the Bonds shall be used exclusively for the purpose of providing funds, with any other available funds, for paying the costs incurred or to be incurred for construction or funding of the projects which comprise the Northern Virginia Transportation District Program as hereinafter defined and as established in Article 5 (§ 33.1-267 et seq.) of Chapter 3 of Title 33.1, consisting of environmental and engineering studies, rights-of-way acquisition, improvements to all modes of transportation, construction and related improvements (the "projects"). Such costs may include the payment of interest on the Bonds for a period during construction and not exceeding one year after completion of construction of the projects.

675 The projects shall be classified as Category 1, Category 2, Category 3, ~~and~~ Category 4, *and Category*
 676 *5 projects*, each category being subject to different preconditions. Bonds to finance the cost of Category
 677 1 ~~and~~, Category 3, *and Category 4* projects may be issued by the Commonwealth Transportation Board.
 678 Bonds to finance the cost of Category 2 projects may be issued by the Commonwealth Transportation
 679 Board only if the aggregate principal amount of \$466,200,000 in bonds has been issued to finance the
 680 cost of Category 1 and Category 3 projects. Category 4 *5* projects shall not be financed through the
 681 issuance of bonds; however, ~~after all Bonds authorized have been issued, then~~ to the extent the Northern
 682 Virginia Transportation District Fund contains amounts in excess of the amount needed to pay annual
 683 debt service on such Bonds in a particular fiscal year, such excess amounts may be expended to pay the
 684 cost of the work identified as Category 4 *5* projects.

685 The projects, and the amount of bonds authorized to be issued for each such project, are as follows
 686 and constitute the Northern Virginia Transportation District Program:

687 Category 1 projects Bond amount

688

689 Metro Capital Improvements, including

690

691 the Franconia-Springfield Metrorail Station \$85,600,000

692

693 Fairfax County Parkway \$87,000,000

694

695 Route 234 Bypass \$73,400,000

696

697 Route 7 improvements between Route 15 and

698

699 Route 28 in Loudoun County \$15,000,000

700

701 Total \$261,000,000

702

703 Category 2 projects consist of the Route 234 Bypass/Route 28 interchange improvements in Prince
 704 William County, in the amount of \$5,000,000.

705

706

707 Category 3 projects Bond amount

708

709 Route 50/Courthouse Road interchange \$10,000,000

710

711 Fairfax County Parkway -- Partially-funded
 712 segments between Route 1 and Route 7 \$50,000,000

713

714 Route 234 Bypass from Route 28 to Route 234 \$15,300,000

715

716 Route 28/Route 625 interchange \$7,900,000

717

718 Metrorail Capital Improvements attributable to
 719 the City of Alexandria, including the King
 720 Street Metrorail station access \$8,600,000

721

722 Metrorail Capital Improvements,
 723 including new rail car purchases \$29,300,000

724

725 Route 15 Safety Improvements
 726 Leesburg Town Line to Potomac River \$10,100,000

727

728 Route1/Route123 Interchange \$8,200,000

729

730 LeeHighwayImprovementsCityofFairfax \$3,100,000

731

732 Route 123 Widening Occoquan River to

733	Lee Chapel Road	\$27,000,000
734		
735	Dulles Corridor Enhanced Transit Program	\$6,000,000
736		
737	Route 7 Improvements-Loudoun County Line	
738	to Reston Parkway	\$10,000,000
739		
740	Route 7 Improvements-Reston Parkway to	
741	Dulles Toll Road	\$3,000,000
742		
743	Telegraph Road Improvements-S.Kings Highway to	
744	Beulah St.	\$5,000,000
745		
746	Route 1/Route 234 Interchange	\$4,000,000
747		
748	Potomac-Rappahannock Transportation Commission	
749	Bus Replacement Program	\$1,500,000
750		
751	Metrorail Capital Improvements attributable to	
752	Arlington County, including Ballston Station	
753	improvements	\$6,200,000
754		
755	Total	\$205,200,000
756		
757	Category 4 projects	Bond amount
758		
759	Dulles Corridor Transit (locality share)	\$300,000,000
760		
761	I-66 Improvements and Rail Extension	
762		
763	(I-495 to Route 15)	\$300,000,000
764		
765	I-95/I-395 improvements and transit improvements	\$300,000,000
766		
767	Route 1 Improvements	\$150,000,000
768		
769	Route 28 Improvements	\$50,000,000
770		
771	I-495 Improvements and Transit Improvements	\$200,000,000
772		
773	Fairfax County Parkway	\$150,000,000
774		
775	Tri-County/Loudoun Parkway	\$100,000,000
776		
777	VRE New Railcar Purchase	\$50,000,000
778		
779	Route 234 Bypass/Route 659 Relocated	\$50,000,000
780		
781	Metrorail Infrastructure Replacement Program	
782		
783	(Virginia locality share)	\$200,000,000
784		
785	Secondary System Improvements (including	
786		
787	unpaved roads)	\$150,000,000
788		

789	Urban System Improvements	\$90,000,000
790		
791	Route 7 Improvements Loudoun	\$75,000,000
792		
793	Route 7 Improvements Fairfax	\$75,000,000
794		
795	Columbia Pike/ Route 7 Transit Improvements	\$75,000,000
796		
797	Rail Safety Improvements	\$10,000,000
798		
799	Total	\$2,325,000,000
800		

801 The Commonwealth Transportation Board shall only issue the bonds for Category 3 projects in an
 802 amount or amounts necessary to expedite or complete the Category 3 projects if the following conditions
 803 are satisfied: (i) at least two of the jurisdictions participating in the Northern Virginia Transportation
 804 District Program have entered into a contract pursuant to § 58.1-815.1 and (ii) the governing bodies of
 805 at least five of the jurisdictions participating in the Northern Virginia Transportation District Program
 806 and comprising a majority of the population of the jurisdictions participating in such Program have
 807 adopted resolutions endorsing the proposed sale or sales of bonds to support the Category 3 projects.
 808 Such contracts and resolutions shall remain in force so long as any debts or obligations for Category 3
 809 projects remain outstanding.

810 *The Commonwealth Transportation Board shall only issue the bonds for Category 4 projects in an*
 811 *amount or amounts necessary to expedite or complete the Category 4 projects upon the concurrence of*
 812 *the Northern Virginia Transportation Authority.*

813 *Bond proceeds for Category 4 Secondary System Improvements shall be allocated on the basis of*
 814 *population of those localities in subsection A of § 58.1-815.1 that receive allocations of funds for*
 815 *secondary system highways pursuant to § 33.1-23.4 or allocations pursuant to § 33.1-23.5:1, as such*
 816 *populations are determined by the 2000 U.S. Census. Bond proceeds allocated for Urban System*
 817 *Improvements shall be allocated on the basis of population of (i) those localities in subsection A of*
 818 *§ 58.1-815.1 that receive allocations of funds for urban system highways pursuant to § 33.1-23.3, and*
 819 *(ii) those towns situated within those localities described in clause (i) that receive allocations of funds*
 820 *for urban system highways pursuant to § 33.1-23.3, as such populations are determined by the 2000*
 821 *U.S. Census.*

822 The work identified as Category 5 projects to be funded from the Northern Virginia Transportation
 823 District Fund, ~~to the extent there are sums in excess of the amount needed to pay debt service on the~~
 824 ~~Bonds in a given fiscal year,~~ is as follows:

825 Category 4 5 projects

826 ~~Such~~ *To the extent that the sales and use tax revenues deposited into the Northern Virginia*
 827 *Transportation District Fund pursuant to subsection G of § 58.1-638 exceed the amount needed to pay*
 828 *annual debt service on bonds issued to support Category 4 projects in any particular fiscal year, the*
 829 *Northern Virginia Transportation Authority, pursuant to § 15.2-4828, may designate Category 5 projects*
 830 *to be funded subject to the following conditions: (i) fifteen percent of such funds shall be allocated to*
 831 *transit operational costs; (ii) any remaining funds shall be allocated to specific Category 4 projects*
 832 *provided that the Authority determines such allocations will materially advance the construction of such*
 833 *Category 4 projects; and (iii) any remaining funds shall be allocated to fund other transit, primary,*
 834 *urban, or secondary project or projects.*

835 *To the extent that all other deposits into the Northern Virginia Transportation District Fund exceed*
 836 *the amount necessary to pay annual debt service on bonds issued to support Category 1, Category 2,*
 837 *and Category 3 projects, the Commonwealth Transportation Board shall allocate such funds to Category*
 838 *5 projects as may be concurred in by the local jurisdictions participating in the Northern Virginia*
 839 *Transportation District Program, as evidenced by resolutions adopted by an affirmative vote of each of*
 840 *the jurisdictions participating in the Northern Virginia Transportation District Program and subject to*
 841 *such guidelines and conditions as may be promulgated by the Commonwealth Transportation Board.*

842 The Bonds shall be issued by the Commonwealth Transportation Board and sold through the
 843 Treasury Board, which is hereby designated the sales and paying agent of the Commonwealth
 844 Transportation Board with respect to the Bonds. The Treasury Board's duties shall include the approval
 845 of the terms and structure of the Bonds. In the event the aggregate principal amount of the issuance, for
 846 the projects and amounts authorized by the 1994 amendments to Chapter 391 of the Acts of Assembly
 847 of 1993, is less than \$127,000,000, the Commonwealth Transportation Board shall cause each Category
 848 1 project to be shared in the reduced issuance by reducing the proceeds of the Bonds for each of the
 849 Category 1 projects on a pro rata basis.

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

The ballot shall contain the following question:

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

The State Board of Elections shall cause to be sent to the electoral boards of such counties and cities sufficient copies of the full text of this act and the question contained herein for the officers of election to post in each polling place on election day. 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 the Department of Taxation shall promulgate all necessary and reasonable regulations to govern the administration of sales and use taxes pursuant to the provisions of this act, including, but not limited to, a bracket system for the collection of taxes in the Commonwealth on transactions of five dollars or less.

5. That any moneys collected and distributed pursuant to the one-half of one percent sales and use tax under subsections A and B of § 58.1-604.4 shall not be used to calculate or reduce the share of federal, state, or local revenues or funds otherwise available to the localities in the counties and cities described in subsections A and B of § 58.1-604.4, nor shall they be used to calculate or reduce any allocation of revenues or funds made pursuant to Title 33.1 of the Code of Virginia. Such share or allocation of revenues or funds that shall not be reduced includes, but is not limited to, state basic aid payments.

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

7. That those portions of the first enactment amending §§ 58.1-540 and 58.1-548, the third enactment, and the ninth enactment shall be effective on July 1, 2002. All other provisions of the first enactment and all remaining enactments shall be effective on July 1, 2003, and only if a majority of those voting at the election and upon the question described in the third enactment of this act vote in the affirmative upon such question. For purposes of this enactment, "a majority of those voting at the election" means a majority of those voting in the entire region constituted by the counties and cities described in the third enactment of this act, and does not require a majority of those voting in any individual locality.

8. That §§ 58.1-627 and 58.1-628 are repealed effective July 1, 2003, and only if the referendum question set forth in the third enactment is affirmed as provided in the seventh enactment.

9. That § 58.1-549 of the Code of Virginia is repealed.

10. That if any clause, sentence, paragraph, section, or part of this act or the application thereof to any person, entity, or circumstance is adjudged invalid by any court of competent jurisdiction such judgment shall not affect the validity of the remainder hereof but shall be confined to the clause, sentence, paragraph, section, or part hereof directly involved in the controversy in which such judgment shall have been rendered, and to this end the provisions of this act are severable.