

043787500

**HOUSE BILL NO. 1366**

Offered January 22, 2004

*A BILL to amend and reenact §§ 29.1-101, 29.1-101.01, 58.1-603, 58.1-604, 58.1-611.1, 58.1-627, 58.1-628 and 58.1-638 of the Code of Virginia relating to increasing the sales and use tax for higher education.*

---

 Patron—Scott, J.M.
 

---

Referred to Committee on Finance

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

**1. That §§ 29.1-101, 29.1-101.01, 58.1-603, 58.1-604, 58.1-611.1, 58.1-627, 58.1-628 and 58.1-638 of the Code of Virginia are amended and reenacted, as follows:**

§ 29.1-101. Game Protection Fund.

The amount received by the State Treasurer from the sale of hunting, trapping and fishing licenses, revenue generated from the sales and use tax pursuant to subsection ~~E~~ *F* of § 58.1-638, and such other items as may accrue to the Board shall be set aside and shall constitute the Game Protection Fund. The income and principal of this Fund, including any unexpended balance, shall be a separate fund in the state treasury and shall only be used for the payment of the salaries, allowances, wages, and expenses incident to carrying out the provisions of the hunting, trapping and inland fish laws and for no other purpose, except as provided in §§ 29.1-101.01, 29.1-701, 58.1-345 and 58.1-1410.

§ 29.1-101.01. Capital Improvement Fund.

There is hereby created in the state treasury a special, nonreverting fund to be known as the Capital Improvement Fund, hereafter referred to as "the Fund." The Fund shall consist of those funds that may be so designated by the Board and any gifts, grants, and contributions from any person, foundation, or other legal entity. In addition, the Board may transfer to this Fund an amount equal to ~~fifty~~ 50 percent or less of the revenue generated annually from the sales and use tax which has been deposited in the Game Protection Fund pursuant to subsection ~~E~~ *F* of § 58.1-638. The income and principal in the Fund shall be used only for the purchase, construction, maintenance, or repair of capital assets of the Department.

The Fund shall be established on the books of the Comptroller. All moneys received shall be paid into the state treasury and credited to the Fund. Interest earned on the moneys in the Fund shall remain in the Fund and be credited to the Fund. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund, except as provided in subsection ~~E~~ *F* of § 58.1-638.

§ 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~~ *three-quarters* percent:

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

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

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

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

5. Of the gross sales of any services ~~which~~ *that* 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~~ *three-quarters* percent:

1. Of the cost price of each item or article of tangible personal property used or consumed in this Commonwealth. Tangible personal property which has been acquired for use outside this Commonwealth

INTRODUCED

HB1366

59 and subsequently becomes subject to the tax imposed hereunder shall be taxed on the basis of its cost  
60 price if such property is brought within this Commonwealth for use within six months of its acquisition;  
61 but if so brought within this Commonwealth six months or more after its acquisition, such property shall  
62 be taxed on the basis of the current market value (but not in excess of its cost price) of such property at  
63 the time of its first use within this Commonwealth. Such tax shall be based on such proportion of the  
64 cost price or current market value as the duration of time of use within this Commonwealth bears to the  
65 total useful life of such property (but it shall be presumed in all cases that such property will remain  
66 within this Commonwealth for the remainder of its useful life unless convincing evidence is provided to  
67 the contrary).

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

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

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

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

77 § 58.1-611.1. Rate of tax on sales of food purchased for human consumption; Food Tax Reduction  
78 Program.

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

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

87 2. From April 1, 2001, through March 31, 2002, the tax rate on such food shall be two and one-half  
88 percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue  
89 from the tax at the rate of one-half percent shall be distributed as provided in subsection A of  
90 § 58.1-638, (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in  
91 subsections B, C and D of § 58.1-638, and (iii) the revenue from the tax at the rate of one percent shall  
92 be used for general fund purposes.

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

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

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

106 C. As used in this section, "food purchased for human consumption" has the same meaning as "food"  
107 defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted  
108 pursuant to that Act, except it shall not include seeds and plants which produce food for human  
109 consumption. For the purpose of this section, "food purchased for human consumption" shall not include  
110 food sold by any retail establishment where the gross receipts derived from the sale of food prepared by  
111 such retail establishment for immediate consumption on or off the premises of the retail establishment  
112 constitutes more than 80 percent of the total gross receipts of that retail establishment, including but not  
113 limited to motor fuel purchases, regardless of whether such prepared food is consumed on the premises  
114 of that retail establishment. For purposes of this section, "retail establishment" means each place of  
115 business for which any "dealer," as defined in § 58.1-612, is required to apply for and receive a  
116 certificate of registration pursuant to § 58.1-613.

117 D. Notwithstanding the tax rates set forth in subsection A, the rate of tax on sales of food purchased  
118 for human consumption for any 12-month period beginning on or after April 1, 2001, shall not be  
119 reduced below the rate then in effect for the Commonwealth's current fiscal year if:

120 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 12-month period beginning on April 1, 2001, or with respect to any consecutive 12-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 12-month period shall be equal to the next lowest tax rate listed in subsection A.

F. *The additional one-quarter of one percent increase in the taxes imposed pursuant to §§ 58.1-603 and 58.1-604 effective July 1, 2004, shall not apply to food purchased for human consumption.*

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

The following Tax Commissioner shall develop brackets of prices that shall be used for the collection of the tax imposed by this chapter ÷ on sales of less than \$5.

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

On transactions ~~over five dollars~~ greater than \$5, the tax shall be computed at three and ~~one-half~~ *three-quarters* percent, one-half cent or more being treated as one cent. If a dealer can show to the satisfaction of the Tax Commissioner that more than ~~eighty-five~~ 85 percent of the total dollar volume of his gross taxable sales during the taxable month was from individual sales at prices of ~~ten~~ 10 cents or less each, and that he was unable to adjust his prices in such manner as to prevent the economic incidence of the sales tax from falling on him, the Tax Commissioner shall determine the proper tax liability of the dealer based on that portion of the dealer's gross taxable sales which was from sales at prices of ~~eleven~~ 11 cents or more.

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

The following Tax Commissioner shall prepare brackets of prices that shall be used for the collection of the combined state and local tax ÷ on sales of less than \$5.

\$0.00	to	\$0.11	no tax
.12	to	.33	1&raquo; tax
.34	to	.55	2&raquo; tax
.56	to	.77	3&raquo; tax
.78	to	.99	4&raquo; tax
1.00	to	1.22	5&raquo; tax
1.23	to	1.44	6&raquo; tax
1.45	to	1.66	7&raquo; tax
1.67	to	1.88	8&raquo; tax
1.89	to	2.11	9&raquo; tax
2.12	to	2.33	10&raquo; tax
2.34	to	2.55	11&raquo; tax

179	2.56	to	2.77	12 <del>&amp;raquo;</del> ; tax
180	2.78	to	2.99	13 <del>&amp;raquo;</del> ; tax
181	3.00	to	3.22	14 <del>&amp;raquo;</del> ; tax
182	3.23	to	3.44	15 <del>&amp;raquo;</del> ; tax
183	3.45	to	3.66	16 <del>&amp;raquo;</del> ; tax
184	3.67	to	3.88	17 <del>&amp;raquo;</del> ; tax
185	3.89	to	4.11	18 <del>&amp;raquo;</del> ; tax
186	4.12	to	4.33	19 <del>&amp;raquo;</del> ; tax
187	4.34	to	4.55	20 <del>&amp;raquo;</del> ; tax
188	4.56	to	4.77	21 <del>&amp;raquo;</del> ; tax
189	4.78	to	5.00	22 <del>&amp;raquo;</del> ; tax

190  
 191 On transactions ~~over five dollars~~ *greater than \$5*, the tax shall be computed at four and ~~one-half~~  
 192 *three-quarters* percent, one-half cent or more being treated as one cent. The ~~foregoing~~ bracket system  
 193 shall not relieve the dealer from the duty and liability to remit an amount equal to four and ~~one-half~~  
 194 *three-quarters* percent of his gross taxable sales as provided in this chapter. If the dealer, however, can  
 195 show to the satisfaction of the Tax Commissioner that more than ~~eighty-five~~ 85 percent of the total dollar  
 196 volume of his gross taxable sales during the taxable month was from individual sales at prices of ~~ten~~ 10  
 197 cents or less each and that he was unable to adjust his prices in such manner as to prevent the economic  
 198 incidence of the sales tax from falling on him, the Tax Commissioner shall determine the proper tax  
 199 liability of the dealer based on that portion of the dealer's gross taxable sales which was from sales at  
 200 prices of ~~eleven~~ 11 cents or more.

201 § 58.1-638. Disposition of state sales and use tax revenue; Transportation Trust Fund; localities'  
 202 share; Game Protection Fund.

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

205 1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted  
 206 by the 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided  
 207 in this section, to the Transportation Trust Fund as defined in § 33.1-23.03:1. Of the funds paid to the  
 208 Transportation Trust Fund, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port  
 209 Fund as provided in this section; an aggregate of 2.4 percent shall be set aside as the Commonwealth  
 210 Airport Fund as provided in this section; and an aggregate of 14.5 percent in fiscal year 1998-1999 and  
 211 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass  
 212 Transit Fund as provided in this section. The Fund's share of such net revenue shall be computed as an  
 213 estimate of the net revenue to be received into the state treasury each month, and such estimated  
 214 payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall  
 215 be made to the Fund on the last day of each month.

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

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

222 b. The amounts allocated pursuant to this section shall be allocated by the Commonwealth  
 223 Transportation Board to the Board of Commissioners of the Virginia Port Authority to be used to  
 224 support port capital needs and the preservation of existing capital needs of all ocean, river, or tributary  
 225 ports within the Commonwealth.

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

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

239 Any new funds in excess of \$12.1 million which are available for allocation by the Virginia Aviation

Board from the Commonwealth Transportation Fund, shall be allocated as follows: ~~sixty~~60 percent to MWAA, up to a maximum annual amount of ~~two~~\$2 million dollars, and ~~forty~~40 percent to air carrier airports as provided in subdivision A 3 a. Except for adjustments due to changes in enplaned passengers, no air carrier airport sponsor, excluding MWAA, shall receive less funds identified under subdivision A 3 a than it received in fiscal year 1994-1995.

Of the remaining amount:

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

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

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

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

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

b. The amounts allocated pursuant to this section shall be used to support the public transportation administrative costs and the costs borne by the locality for the purchase of fuels, lubricants, tires and maintenance parts and supplies for public transportation at a state share of ~~eighty~~ 80 percent in 2002 and ~~ninety-five~~95 percent in 2003 and succeeding years. These amounts may be used to support up to ~~ninety-five~~95 percent of the local or nonfederal share of capital project costs for public transportation and ridesharing equipment, facilities, and associated costs. Capital costs may include debt service payments on local or agency transit bonds. The term "borne by the locality" means the local share eligible for state assistance consisting of costs in excess of the sum of fares and other operating revenues plus federal assistance received by the locality.

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

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

(2) The Board may allocate these funds to any locality or planning district commission to finance up to ~~eighty~~80 percent of the local share of all costs associated with the development, implementation, and continuation of ridesharing programs.

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

(a) To finance up to ~~ninety-five~~95 percent of the capital costs related to the development, implementation and promotion of experimental public transportation and ridesharing projects approved by the Board.

(b) To finance up to ~~ninety-five~~95 percent of the operating costs of experimental mass transportation and ridesharing projects approved by the Board for a period of time not to exceed ~~twelve~~12 months.

(c) To finance up to ~~ninety-five~~95 percent of the cost of the development and implementation of any other project designated by the Board where the purpose of such project is to enhance the provision and use of public transportation services.

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

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

(2) To finance up to ~~forty~~ 50 percent of the local share of public transportation operations planning and technical study projects approved by the Board.

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

301 f. The remaining ~~twenty-five~~25 percent shall be distributed for capital purposes on the basis of  
302 ~~ninety-five~~95 percent of the nonfederal share for federal projects and ~~ninety-five~~95 percent of the total  
303 costs for nonfederal projects. In the event that total capital funds available under this subdivision are  
304 insufficient to fund the complete list of eligible projects, the funds shall be distributed to each transit  
305 property in the same proportion that such capital expenditure bears to the statewide total of capital  
306 projects.

307 g. There is hereby created in the Department of the Treasury a special nonreverting fund known as  
308 the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the  
309 Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be  
310 established on the books of the Comptroller and consist of such moneys as are appropriated to it by the  
311 General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given,  
312 bequeathed, granted, or otherwise made available to the Commonwealth Transit Capital Fund. Any funds  
313 remaining in the Commonwealth Transit Capital Fund at the end of the biennium shall not revert to the  
314 general fund, but shall remain in the Commonwealth Transit Capital Fund. Interest earned on funds  
315 within the Commonwealth Transit Capital Fund shall remain in and be credited to the Commonwealth  
316 Transit Capital Fund. Proceeds of the Commonwealth Transit Capital Fund may be paid to any political  
317 subdivision, another public entity created by an act of the General Assembly, or a private entity as  
318 defined in § 56-557 and for purposes as enumerated in subdivision 4c of § 33.1-269 or expended by the  
319 Department of Rail and Public Transportation for the purposes specified in this subdivision. Revenues of  
320 the Commonwealth Transit Capital Fund shall be used to support capital expenditures involving the  
321 establishment, improvement, or expansion of public transportation services through specific projects  
322 approved by the Commonwealth Transportation Board. Projects financed by the Commonwealth Transit  
323 Capital Fund shall receive local, regional or private funding for at least ~~twenty~~20 percent of the  
324 nonfederal share of the total project cost.

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

328 a. Local obligations for debt service for WMATA rail transit bonds apportioned to each locality  
329 using WMATA's capital formula shall be paid first by NVTC. NVTC shall use ~~ninety-five~~95 percent  
330 state aid for these payments.

331 b. The remaining funds shall be apportioned to reflect WMATA's allocation formulas by using the  
332 related WMATA-allocated subsidies and relative shares of local transit subsidies. Capital costs shall  
333 include ~~twenty~~ 20 percent of annual local bus capital expenses. Hold harmless protections and  
334 obligations for NVTC's jurisdictions agreed to by NVTC on November 5, 1998, shall remain in effect.

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

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

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

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

such increase shall, for the purposes of this section, be added to the school population of such city or town as shown by the last such census and a proper reduction made in the school population of the county or counties from which the annexed territory was acquired.

*E. The sales and use tax revenue generated by the one-quarter of one percent sales and use tax increase enacted by the 2004 Session of the General Assembly shall be distributed in accordance with this subsection. Twenty-five percent of such revenue shall be disbursed to the Virginia Community College System to support operating costs. The remaining 75 percent of such revenue shall be distributed to various four-year public institutions of higher education, in accordance with the recommendations and findings of the Joint Subcommittee for Higher Education Funding Policies, and with priority given to those institutions (i) demonstrating the highest rate of increase in in-state enrollments and (ii) having the portion of out-of-state enrollments in each incoming freshman class not exceeding 25 percent, as set forth in the appropriation act. However, such restriction on out-of-state enrollments shall not apply to Norfolk State University, Virginia Military Institute, and Virginia State University.*

*E.F. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment, wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used, in part, to defray the cost of law enforcement. Not later than ~~thirty~~30 days after the close of each quarter, the Comptroller shall transfer to the Game Protection Fund the appropriate amount of collections to be dedicated to such Fund. At any time that the balance in the Capital Improvement Fund, established under § 29.1-101.1, is equal to or in excess of \$35 million, any portion of sales and use tax revenues that would have been transferred to the Game Protection Fund, established under § 29.1-101, in excess of the net operating expenses of the Board, after deduction of other amounts which accrue to the Board and are set aside for the Game Protection Fund, shall remain in the general fund until such time as the balance in the Capital Improvement Fund is less than \$35 million.*

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

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