

042973712

SENATE BILL NO. 635

Offered January 22, 2004

A BILL to amend and reenact §§ 10.1-1020, 10.1-2128, 10.1-2133, 30-133, 33.1-12, 33.1-23.03:1, 33.1-23.03:8, 33.1-269, 33.1-418, 33.1-439, 46.2-694, 46.2-697, 46.2-698, 46.2-700, 58.1-302, 58.1-320, 58.1-321, 58.1-322, 58.1-324, 58.1-339.8, 58.1-341, 58.1-391, 58.1-392, 58.1-402, 58.1-415, 58.1-441, 58.1-603, 58.1-604, 58.1-604.1, 58.1-608.3, 58.1-611.1, 58.1-614, 58.1-615, 58.1-627, 58.1-628, 58.1-638, 58.1-639, 58.1-801, 58.1-803, 58.1-807, 58.1-808, 58.1-901, 58.1-2217, 58.1-2249, 58.1-2289, 58.1-2401, 58.1-2402, 58.1-2405, 58.1-2425, 58.1-2701, 58.1-2706, 58.1-3523, 58.1-3524, 58.1-3526, 58.1-3528, 58.1-3531, 58.1-3533, 58.1-3833, and 58.1-3912 of the Code of Virginia; to amend and reenact the third enactment of Chapter 12 of the Acts of Assembly of the 1986 Special Session, to amend the Code of Virginia by adding sections numbered 46.2-702.1, 58.1-390.1, 58.1-390.2, and 58.1-393.1, by adding in Article 9 of Chapter 3 of Title 58.1 sections numbered 58.1-394.1, 58.1-394.2, and 58.1-395, by adding in Chapter 8 of Title 58.1 a section numbered 58.1-817, by adding in Chapter 22 of Title 58.1 an article number 8.1, consisting of a section numbered 58.1-2288.1, by adding sections numbered 58.1-2425.1 and 58.1-2510.1; and to repeal §§ 58.1-3527, 58.1-3529, 58.1-3536, and 58.1-3916.01 of the Code of Virginia, to repeal the second enactment of Chapter 12 of the Acts of Assembly of the 1986 Special Session, and to repeal the tenth enactment of Chapters 1019 and 1044 of the Acts of Assembly of 2000, relating to the revenues of the Commonwealth.

Patrons—Chichester, Blevins, Colgan, Edwards, Hanger, Hawkins, Houck, Howell, Lambert, Locke, Lucas, Marsh, Norment, Potts, Puckett, Puller, Quayle, Rerras, Reynolds, Saslaw, Stolle, Stosch, Ticer, Wampler, Watkins and Whipple

Referred to Committee on Finance

Whereas, the General Assembly has made funding commitments it cannot keep; and
Whereas, transportation revenues are increasingly being devoted to road maintenance rather than road construction and soon revenue will be insufficient to draw down all available federal taxes paid by Virginians; and

Whereas, Virginia has been put on "credit watch" by a respected bond rating agency because tax relief promised and growth in certain core functions are not backed by sustainable revenues, resulting in repeated one-time fixes to balance each biennial budget; and

Whereas, fairness of the tax code has been diminished over time from actions that provide preferential tax treatment; and

Whereas, local government real estate taxes are increased when the Commonwealth fails to pay its fair share of public education Standards of Quality costs; and

Whereas, strategic investments in public education, higher education, public safety, natural resources and transportation are needed to keep Virginia's economy growing; and

Whereas, Virginia's major tax rates have been essentially the same for almost 40 years; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1020, 10.1-2128, 10.1-2133, 30-133, 33.1-12, 33.1-23.03:1, 33.1-23.03:8, 33.1-269, 33.1-418, 33.1-439, 46.2-694, 46.2-697, 46.2-698, 46.2-700, 58.1-302, 58.1-320, 58.1-321, 58.1-322, 58.1-324, 58.1-339.8, 58.1-341, 58.1-391, 58.1-392, 58.1-402, 58.1-415, 58.1-441, 58.1-603, 58.1-604, 58.1-604.1, 58.1-608.3, 58.1-611.1, 58.1-614, 58.1-615, 58.1-627, 58.1-628, 58.1-638, 58.1-639, 58.1-801, 58.1-803, 58.1-807, 58.1-808, 58.1-901, 58.1-2217, 58.1-2249, 58.1-2289, 58.1-2401, 58.1-2402, 58.1-2405, 58.1-2425, 58.1-2701, 58.1-2706, 58.1-3523, 58.1-3524, 58.1-3526, 58.1-3528, 58.1-3531, 58.1-3533, 58.1-3833, and 58.1-3912 of the Code of Virginia are amended and reenacted, that the third enactment of Chapter 12 of the Acts of Assembly of the 1986 Special Session is amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 46.2-702.1, 58.1-390.1, 58.1-390.2 and 58.1-393.1, by adding in Article 9 of Chapter 3 of Title 58.1 sections numbered 58.1-394.1, 58.1-394.2, and 58.1-395, by adding in Chapter 8 of Title 58.1 a section numbered 58.1-817, by adding in Chapter 22 of Title 58.1 an article number 8.1, consisting of a section numbered 58.1-2288.1, and by adding sections numbered 58.1-2425.1 and 58.1-2510.1 as follows:

§ 10.1-1020. Virginia Land Conservation Fund; purposes of Foundation.

A. The Foundation shall establish, administer, manage, including the creation of reserves, and make expenditures and allocations from a special, nonreverting fund in the state treasury to be known as the

INTRODUCED

SB635

57 Virginia Land Conservation Fund, hereinafter referred to as the Fund. The Foundation shall establish and
58 administer the Fund solely for the purposes of:

59 1. Acquiring fee simple title to or other rights, interests or privileges in property for the protection or
60 preservation of ecological, cultural or historical resources, lands for recreational purposes, state forest
61 lands, and lands for threatened or endangered species, fish and wildlife habitat, natural areas, agricultural
62 and forestal lands and open space; and

63 2. Providing grants to state agencies, including the Virginia Outdoors Foundation, and matching
64 grants to other public bodies and holders for acquiring fee simple title to or other rights, interests or
65 privileges in real property for the protection or preservation of ecological, cultural or historical
66 resources, lands for recreational purposes, and lands for threatened or endangered species, fish and
67 wildlife habitat, natural areas, agricultural and forestal lands and open space. The Board shall establish
68 criteria for making grants from the Fund, including procedures for determining the amount of each grant
69 and the required match. The criteria shall include provisions for grants to localities for purchase of
70 development rights programs.

71 Interests in land acquired as provided in subdivision 1 of this subsection may be held by the
72 Foundation or transferred to state agencies or other appropriate holders. Whenever a holder acquires any
73 interest in land other than a fee simple interest as a result of a grant or transfer from the Foundation,
74 such interest shall be held jointly by the holder and a public body. Whenever a holder acquires a fee
75 simple interest in land as a result of a grant or transfer from the Foundation, a public body shall hold an
76 open space easement in such land.

77 B. The Fund shall consist of ~~general fund moneys~~ *the \$15 million deposit in each fiscal year from*
78 *revenues generated by the retail sales and use tax pursuant to subdivision A 4 of § 58.1-638* and gifts,
79 endowments or grants from the United States government, its agencies and instrumentalities, and funds
80 from any other available sources, public or private. Such moneys, gifts, endowments, grants or funds
81 from other sources may be either restricted or unrestricted. For the purposes of this chapter, "restricted
82 funds" shall mean those funds received by the Board to which specific conditions apply; "restricted
83 funds" shall include, but not be limited to, general obligation bond moneys and conditional gifts.
84 "Unrestricted funds" shall mean those received by the Foundation to which no specific conditions apply;
85 "unrestricted funds" shall include, but not be limited to, moneys appropriated to the Fund by the General
86 Assembly to which no specific conditions are attached and unconditional gifts.

87 C. After an allocation for administrative expenses has been made as provided in subsection F, the
88 remaining unrestricted funds in the Fund shall be allocated as follows:

89 1. Twenty-five percent shall be transferred to the Open-Space Lands Preservation Trust Fund to be
90 used as provided in § 10.1-1801.1; and

91 2. Seventy-five percent shall be divided equally among the following four uses: (i) natural area
92 protection; (ii) open spaces and parks; (iii) farmlands and forest preservation; and (iv) historic area
93 preservation. Of the amount allocated as provided in this subdivision, at least one third shall be used to
94 secure easements to be held or co-held by a public body.

95 D. Any moneys remaining in the Fund at the end of a biennium shall remain in the Fund, and shall
96 not revert to the general fund. Interest earned on moneys received by the Fund other than bond proceeds
97 shall remain in the Fund and be credited to it.

98 E. A portion of the Fund, not to exceed ~~twenty~~20 percent of the annual balance of unrestricted funds,
99 may be used to develop properties purchased in fee simple with the assets of the Fund for public use
100 including, but not limited to, development of trails, parking areas, infrastructure, and interpretive projects
101 or to conduct environmental assessments or other preliminary evaluations of properties prior to the
102 acquisition of any property interest.

103 F. Up to \$250,000 per year of the interest generated by the Fund may be used for the Foundation's
104 administrative expenses, including, but not limited to, the expenses of the Board and its members,
105 development of the Foundation's strategic plan, development and maintenance of an inventory of
106 properties as provided in subdivision 1 b of § 10.1-1021, development of a needs assessment for future
107 expenditures as provided in subdivision 1 c of § 10.1-1021, and fulfillment of reporting requirements.
108 All such expenditures shall be subject to approval by the Board of Trustees.

109 G. The Comptroller shall maintain the restricted funds and the unrestricted funds in separate
110 accounts.

111 H. For the purposes of this section, "public body" shall have the meaning ascribed to it in
112 § 10.1-1700, and "holder" shall have the meaning ascribed to it in § 10.1-1009.

113 § 10.1-2128. Virginia Water Quality Improvement Fund established; purposes.

114 A. There is hereby established in the state treasury a special permanent, nonreverting fund, to be
115 known as the "Virginia Water Quality Improvement Fund." The Fund shall be established on the books
116 of the Comptroller. The Fund shall consist of sums appropriated to it by the General Assembly which
117 shall include, unless otherwise provided in the general appropriation act, ~~ten~~ 10 percent of the annual
118 general fund revenue collections that are in excess of the official estimates in the general appropriation

act and ten percent of any unreserved general fund balance at the close of each fiscal year whose reappropriation is not required in the general appropriation act for the relevant fiscal year up to a total of \$20 million in any fiscal year. Pursuant to § 2.2-1514, at the end of each fiscal year the Comptroller shall set aside such amount for deposit into the Fund from such excess general fund revenue collections. The Fund shall also consist of the \$15 million deposit in each fiscal year from revenues generated by the retail sales and use tax pursuant to subdivision A 4 of § 58.1-638 and such other sums as may be made available to it from any other source, public or private, and shall include any penalties or damages collected under this article, federal grants solicited and received for the specific purposes of the Fund, and all interest and income from investment of the Fund. Any sums 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. All moneys designated for the Fund shall be paid into the state treasury and credited to the Fund. Moneys in the Fund shall be used solely for Water Quality Improvement Grants. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon the written request of the Director of the Department of Environmental Quality or the Director of the Department of Conservation and Recreation as provided in this chapter.

B. The purpose of the Fund is to provide Water Quality Improvement Grants to local governments, soil and water conservation districts, institutions of higher education and individuals for point and nonpoint source pollution prevention, reduction and control programs and efforts undertaken in accordance with the provisions of this chapter. The Fund shall not be used for agency operating expenses or for purposes of replacing or otherwise reducing any general, nongeneral, or special funds allocated or appropriated to any state agency; however, nothing in this section shall be construed to prevent the award of a Water Quality Improvement Grant to a local government in connection with point or nonpoint pollution prevention, reduction and control programs or efforts undertaken on land owned by the Commonwealth and leased to the local government.

§ 10.1-2133. Annual report by State Comptroller.

The State Comptroller shall, by January 1 of each year, certify to the chairmen of the House Committee on Appropriations and the Senate Committee on Finance, the total amount of annual general fund revenue collections in excess of the official estimate in the general appropriation act, the total amount of the unreserved general fund balance whose reappropriation is not required in the general appropriation act at the close of the previous fiscal year and the total amount of funds that are to be directed to the credit of the Virginia Water Quality Improvement Fund under this article and pursuant to subdivision A 4 of § 58.1-638 unless otherwise provided in the general appropriation act.

§ 30-133. Duties and powers generally.

A. The Auditor of Public Accounts shall audit all the accounts of every state department, officer, board, commission, institution or other agency handling any state funds. In the performance of such duties and the exercise of such powers he may employ the services of certified public accountants, provided the cost thereof shall not exceed such sums as may be available out of the appropriation provided by law for the conduct of his office.

B. The Auditor of Public Accounts shall review the information required in § 2.2-1501 to determine that state agencies are providing and reporting appropriate information on financial and performance measures, and the Auditor shall review the accuracy of the management systems used to accumulate and report the results. The Auditor shall report annually to the General Assembly the results of such audits and make recommendations, if indicated, for new or revised accountability or performance measures to be implemented for the agencies audited.

C. The Auditor of Public Accounts shall prepare, by November 1, a summary of the results of all of the audits and other oversight responsibilities performed for the most recently ended fiscal year. The Auditor of Public Accounts shall present this summary to the Senate Finance, House Appropriations and House Finance Committees on the day the Governor presents to the General Assembly the Executive Budget in accordance with §§ 2.2-1508 and 2.2-1509 or at the direction of the respective Chairman of the Senate Finance, House Appropriations or House Finance Committees at one of their committee meetings prior to the meeting above.

D. As part of his normal oversight responsibilities, the Auditor of Public Accounts shall incorporate into his audit procedures and processes a review process to ensure that the Commonwealth's payments for qualifying vehicles, as defined in ~~§ 58.1-3523~~ to counties, cities, and towns under Chapter 35.1 (~~§ 58.1-3523 et seq.~~) of Title 58.1, are consistent with the provisions of ~~§§ 58.1-3525 and~~ § 58.1-3526. The Auditor of Public Accounts shall report to the Governor and the Chairman of the Senate Finance Committee annually any material failure by a locality or the Commonwealth to comply with the provisions of Chapter 35.1 (~~§ 58.1-3523 et seq.~~) of Title 58.1.

E. The Auditor of Public Accounts when called upon by the Governor shall examine the accounts of any institution maintained in whole or in part by the Commonwealth and, upon the direction of the Comptroller, shall examine the accounts of any officer required to settle his accounts with him; and

180 upon the direction of any other state officer at the seat of government he shall examine the accounts of
181 any person required to settle his accounts with such officer.

182 F. Upon the written request of any member of the General Assembly, the Auditor of Public Accounts
183 shall furnish the requested information and provide technical assistance upon any matter requested by
184 such member.

185 G. In compliance with the provisions of the federal Single Audit Act Amendments of 1996, Public
186 Law 104-156, the Joint Legislative Audit and Review Commission may authorize the Auditor of Public
187 Accounts to audit biennially the accounts pertaining to federal funds received by state departments,
188 officers, boards, commissions, institutions or other agencies.

189 § 33.1-12. General powers and duties of Board, etc.; definitions.

190 The Commonwealth Transportation Board shall be vested with the following powers and shall have
191 the following duties:

192 (1) Location of routes. - To locate and establish the routes to be followed by the roads comprising
193 systems of state highways between the points designated in the establishment of such systems.

194 (2) Construction and maintenance contracts and activities related to passenger and freight rail and
195 public transportation.

196 (a) To let all contracts for the construction, maintenance, and improvement of the roads comprising
197 systems of state highways and for all activities related to passenger and freight rail and public
198 transportation in excess of \$2 million. The Commonwealth Transportation Commissioner shall have
199 authority to let all contracts for highway construction, maintenance, and improvements up to \$2 million
200 in value. The Director of the Department of Rail and Public Transportation shall have the authority to
201 let contracts for passenger and freight rail and public transportation improvements up to \$2 million in
202 value. The Commonwealth Transportation Commissioner is authorized to enter into agreements with
203 localities, authorities, and transportation districts to administer projects and to allow those localities,
204 authorities, and transportation districts to let contracts up to \$2 million in value for highway
205 construction, maintenance, and improvements within their jurisdictions. The Director of the Department
206 of Rail and Public Transportation is authorized to enter into agreements with localities, authorities, and
207 transportation districts to administer projects and to allow those localities, authorities, and transportation
208 districts to let contracts up to \$2 million in value for passenger and freight rail and public transportation
209 activities within their jurisdictions. The Commonwealth Transportation Commissioner and the Director of
210 the Department of Rail and Public Transportation shall report on their respective transportation
211 contracting activities at least quarterly to the Board.

212 (b) The Commonwealth Transportation Board may award contracts for the construction of
213 transportation projects on a design-build basis. The Board may annually award five design-build
214 contracts valued no more than \$20 million. The Board may also award design-build contracts valued
215 more than \$20 million, provided that no more than five of these latter contracts are in force at the same
216 time. These contracts may be awarded after a written determination is made by the Commonwealth
217 Transportation Commissioner, pursuant to objective criteria previously adopted by the Board regarding
218 the use of design-build, that delivery of the projects must be expedited and that it is not in the public
219 interest to comply with the design and construction contracting procedures normally followed. Such
220 objective criteria will include requirements for prequalification of contractors and competitive bidding
221 processes. These contracts shall be of such size and scope to encourage maximum competition and
222 participation by agency prequalified and otherwise qualified contractors. Such determination shall be
223 retained for public inspection in the official records of the Department of Transportation and shall
224 include a description of the nature and scope of the project and the reasons for the Commissioner's
225 determination that awarding a design-build contract will best serve the public interest. The provisions of
226 this section shall supersede contrary provisions of subdivision 2 of subsection C of § 11-41 and
227 § 11-41.2.

228 (c) For transportation construction projects valued in excess of \$100 million, the Commonwealth
229 Transportation Board shall require that a financial plan be prepared. This plan shall include, but not be
230 limited to, the following: (i) a complete cost estimate for all major project elements; (ii) an
231 implementation plan with the project schedule and cost-to-complete information presented for each year;
232 (iii) identified revenues by funding source available each year to meet project costs; and (iv) a detailed
233 cash-flow analysis for each year of the proposed project.

234 (3) Traffic regulations. - To make rules and regulations, from time to time, not in conflict with the
235 laws of this Commonwealth, for the protection of and covering traffic on and the use of systems of state
236 highways and to add to, amend or repeal the same.

237 (4) Naming highways. - To give suitable names to state highways and change the names of any
238 highways forming a part of the systems of state highways, except such roads as have been or may
239 hereafter be named by the General Assembly.

240 (5) Compliance with federal acts. - To comply fully with the provisions of the present or future
241 federal aid acts. The Board may enter into all contracts or agreements with the United States

government and may do all other things necessary to carry out fully the cooperation contemplated and provided for by present or future acts of Congress in the area of transportation.

(6) Information and statistics. - To gather and tabulate information and statistics relating to transportation and disseminate the same throughout the Commonwealth. In addition, the Commissioner shall provide a report to the Governor, the General Assembly, the Commonwealth Transportation Board, and the public concerning the current status of all highway construction projects in the Commonwealth. This report shall be posted at least four times each fiscal year, but may be updated more often as circumstances allow. The report shall contain, at a minimum, the following information for every project in the Six-Year Improvement Program: (i) project description; (ii) total cost estimate; (iii) funds expended to date; (iv) project timeline and completion date; (v) statement of whether project is ahead of, on, or behind schedule; and (vi) the name of the prime contractor. Use of one or more Internet websites may be used to satisfy this requirement. Project specific information posted on the Internet shall be updated daily as information is available.

(7) Policies and operation of Departments. - To review and approve policies and transportation objectives of the Department of Transportation and the Department of Rail and Public Transportation, to assist in establishing such policies and objectives, to oversee the execution thereof, and to report thereon to the Commonwealth Transportation Commissioner and the Director of the Department of Rail and Public Transportation, respectively.

(8) Cooperation with other agencies and local governments. - (a) To cooperate with the federal government, the American Association of State Highway and Transportation Officials and any other organization in the numbering, signing and marking of highways, in the taking of measures for the promotion of highway safety, in research activities, in the preparation of standard specifications, in the testing of highway materials and otherwise with respect to transportation projects.

(b) To offer technical assistance and coordinate state resources to work with local governments, upon their request, in developing sound transportation components for their local comprehensive plans.

(9) Transportation. - (a) To monitor and, where necessary, approve actions taken by the Department of Rail and Public Transportation pursuant to Chapter 10.1 (§ 33.1-391.1 et seq.) of this title in order to ensure the efficient and economical development of public transportation, the enhancement of rail transportation, and the coordination of such rail and public transportation plans with highway programs.

(b) To coordinate the planning for financing of transportation needs, including needs for highways, railways, seaports, airports, and public transportation and to set aside funds as provided in § 33.1-23.03:1. To allocate funds for these needs pursuant to §§ 33.1-23.1 and ~~58.1-638~~ *58.1-2425.1*, the Board shall adopt a Six-Year Improvement Program of anticipated projects and programs by July 1 of each year. This program shall be based on the most recent official Transportation Trust Fund revenue forecast and shall be consistent with a debt management policy adopted by the Board in consultation with the Debt Capacity Advisory Committee and the Department of the Treasury.

(c) To recommend to the General Assembly for their consideration at the next session of the General Assembly, objective criteria to be used by the Board in selecting those transportation projects to be advanced from the feasibility to the construction stage. If such criteria are enacted into law, such objectives shall apply to the interstate, primary, and urban systems of highways.

(d) To enter into contracts with local districts, commissions, agencies, or other entities created for transportation purposes.

(10) Contracts with other states. - To enter into all contracts with other states necessary for the proper coordination of the location, construction, maintenance, improvement and operation of transportation systems, including the systems of state highways with the highways of such other states and, where necessary, to seek the approval of such contracts by the Congress of the United States.

(11) Use of funds. - To administer, distribute, and allocate funds in the Transportation Trust Fund as provided by law.

(12) Financial and investment advisors. - With the advice of the Secretary of Finance and the State Treasurer, to engage a financial advisor and investment advisor who may be anyone within or without the government of the Commonwealth, to assist in planning and making decisions concerning the investment of funds and the use of bonds for transportation purposes. The work of these advisors shall be coordinated with the Secretary of Finance and the State Treasurer.

(13) The powers of the Virginia Aviation Board set out in Chapter 1 (§ 5.1-1 et seq.) of Title 5.1 and the Virginia Port Authority set out in Chapter 10 (§ 62.1-128 et seq.) of Title 62.1 are in no way diminished by the provisions of this title.

(14) To enter into payment agreements with the Treasury Board related to payments on bonds issued by the Commonwealth Transportation Board.

(15) Outdoor theaters. - By regulation:

(a) To prevent the erection of moving picture screens of outdoor theaters in such a manner as to be ordinarily visible from any highway;

303 (b) To require that a sufficient space is left between any highway and the entrance to any outdoor
304 theater to prevent congestion on the highway; and

305 (c) To require that outdoor theater entrances and exits are adequately lighted and marked.

306 Throughout this title the term "systems of state highways" shall have the meaning ascribed thereto by
307 § 1-13.40.

308 The term "public transportation" or "mass transit" as used in this title means passenger transportation
309 by rubber-tired, rail, or other surface conveyance which provides shared ride services open to the general
310 public on a regular and continuing basis. The term does not include school buses; charter or sight-seeing
311 service; vehicular ferry service which serves as a link in the highway network; or human service agency
312 or other client-restricted transportation.

313 § 33.1-23.03:1. Transportation Trust Fund.

314 There is hereby created in the Department of the Treasury a special nonreverting fund to be known
315 as the Transportation Trust Fund, consisting of:

316 1. Funds remaining for highway construction purposes, among the several highway systems pursuant
317 to § 33.1-23.1.

318 2. [Repealed.]

319 3. The additional revenues generated by enactments of Chapters 11, 42 and 15 of the Acts of
320 Assembly, 1986 Special Session, *and designated for this fund; and the additional revenues described in*
321 *§ 46.2-702.1, clause (iv) of § 58.1-2425, subsection B of § 58.1-817, and subsection F of § 58.1-2289*
322 *generated by enactments of the 2004 Session of the General Assembly, and designated for this fund.*

323 4. Tolls and other revenues derived from the projects financed or refinanced pursuant to this title
324 which are payable into the state treasury and tolls and other revenues derived from other transportation
325 projects, which may include upon the request of the applicable appointed governing body, as soon as
326 their obligations have been satisfied, such tolls and revenue derived for transportation projects pursuant
327 to § 33.1-253 (Chesapeake Bay Bridge and Tunnel District) and § 33.1-320 (Richmond Metropolitan
328 Authority) or if the appointed governing body requests refunding or advanced refunding by the Board
329 and such refunding or advanced refunding is approved by the General Assembly. Such funds shall be
330 held in separate subaccounts of the Transportation Trust Fund to the extent required by law or the
331 Board.

332 5. Tolls and other revenues derived from the Richmond-Petersburg Turnpike, provided that such
333 funds shall be held in a separate subaccount of the Transportation Trust Fund and allocated as set forth
334 in Chapter 574 of the Acts of Assembly of 1983 until expiration of that Act.

335 6. Such other funds as may be appropriated by the General Assembly from time to time, and
336 designated for this fund.

337 7. All interest, dividends and appreciation which may accrue to the Transportation Trust Fund and
338 the Highway Maintenance and Construction Fund, except that interest on funds becoming part of the
339 Transportation Trust Fund under subdivision 1 and the Highway Maintenance and Construction Fund
340 shall not become part of the Transportation Trust Fund until July 1, 1988.

341 8. All amounts required by contract to be paid over to the Transportation Trust Fund.

342 § 33.1-23.03:8. Priority Transportation Fund established.

343 A. There is hereby created in the state treasury a special nonreverting fund to be known as the
344 Priority Transportation Fund, hereafter referred to as "the Fund." The Fund shall be established on the
345 books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be
346 credited to it. All funds as may be designated in the appropriation act for deposit to the Fund *and all*
347 *revenues described under § 58.1-2510.1* shall be paid into the state treasury and credited to the Fund.
348 Such funds shall include:

349 1. A portion of the moneys actually collected, including penalty and interest, attributable to any
350 increase in revenues from the taxes imposed under Chapter 22 (§ 58.1-2200 et seq.) of Title 58.1, with
351 such increase being calculated as the difference between such tax revenues collected in the manner
352 prescribed under Chapter 22 less such tax revenues that would have been collected using the prescribed
353 manner in effect before the effective date of Chapter 22. The portion to be deposited to the Fund shall
354 be the moneys actually collected from such increase in revenues and allocated for highway and mass
355 transit improvement projects as set forth in § 33.1-23.03:2, but not including any amounts that are
356 allocated to the Commonwealth Port Fund and the Commonwealth Airport Fund under such section.
357 There shall also be deposited into the Fund all additional federal revenues attributable to Chapter 22
358 (§ 58.1-2200 et seq.) of Title 58.1; ~~and~~

359 2. Beginning with the fiscal year ending June 30, 2000, and for fiscal years thereafter, all revenues
360 that exceed the official forecast, pursuant to § 2.2-1503, for (i) the Highway Maintenance and Operating
361 Fund and (ii) the allocation to highway and mass transit improvement projects as set forth in
362 § 33.1-23.03:2, but not including any amounts that are allocated to the Commonwealth Port Fund and
363 the Commonwealth Airport Fund under such section; ~~and~~

364 3. *Beginning with the fiscal year starting on July 1, 2004, the license tax revenues as described in*

§ 58.1-2510.1; and

34. Any other such funds as may be transferred, allocated, or appropriated.

The Fund shall be considered a part of the Transportation Trust 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. Moneys in the Fund shall be used solely for the purposes enumerated in subsection B of this section. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller.

B. The Commonwealth Transportation Board shall use the Fund to facilitate the financing of priority transportation projects throughout the Commonwealth. The Board may use the Fund either (i) by expending amounts therein on such projects directly, (ii) by payment to any authority, locality, commission or other entity for the purpose of paying the costs thereof, or (iii) by using such amounts to support, secure, or leverage financing for such projects. No expenditures from or other use of amounts in the Fund shall be considered in allocating highway maintenance and construction funds under § 33.1-23.1 or apportioning Transportation Trust Fund funds ~~under § 58.1-638~~ pursuant to § 58.1-2425.1, but shall be in addition thereto. The Board shall use the Fund to facilitate the financing of priority transportation projects as designated by the General Assembly; provided, however, that, at the discretion of the Commonwealth Transportation Board, funds allocated to projects within a transportation district may be allocated among projects within the same transportation district as needed to meet construction cash-flow needs.

§ 33.1-269. General powers of Board.

The Commonwealth Transportation Board may, subject to the provisions of this article:

1. Acquire by purchase or by condemnation, construct, improve, operate and maintain any one or more of the projects mentioned and included in the undertaking defined in this article;

2. Issue revenue bonds of the Commonwealth, to be known and designated as "Commonwealth of Virginia Toll Revenue Bonds," payable from earnings and from any other available sources of funds, to pay the cost of such projects;

3. Subject to the limitations and approvals of § 33.1-279.1, issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Contract Revenue Bonds," secured by Transportation Trust Fund revenues under a payment agreement between the Board and the Treasury Board, subject to their appropriation by the General Assembly and payable first from revenues received pursuant to contracts with a primary highway transportation improvement district or transportation service district or other local revenue sources for which specific funding of any such bonds may be authorized by law; second, to the extent required, from funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the county or counties in which the project or projects to be financed are located; and third, to the extent required, from other legally available revenues of the Trust Fund and from any other available source of funds;

4. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Revenue Bonds," secured (i) by revenues received from the U.S. Route 58 Corridor Development Fund, subject to their appropriation by the General Assembly, (ii) to the extent required, from revenues legally available from the Transportation Trust Fund and (iii) to the extent required, from any other legally available funds which have been appropriated by the General Assembly;

4a. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Revenue Bonds," secured, subject to their appropriation by the General Assembly, first from (i) revenues received from the Northern Virginia Transportation District Fund, (ii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the city or county in which the project or projects to be financed are located, (iii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iv) such other funds which may be appropriated by the General Assembly;

4b. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Program Revenue Bonds" secured, subject to their appropriation by the General Assembly, first from (i) any revenues received from any Set-aside Fund established by the General Assembly pursuant to § 58.1-816.1, (ii) to the extent required, revenues received pursuant to any contract with a local jurisdiction or any alternative mechanism for generation of local revenues for specific funding of a project satisfactory to the Commonwealth Transportation Board, (iii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the city or county in which the project or projects to be financed are located, (iv) to the extent required, legally available revenues of the Transportation Trust Fund, and (v) such other funds which may be appropriated by the General Assembly. No bonds for any project or projects shall be issued under the

426 authority of this subsection unless such project or projects are specifically included in a bill or resolution
427 passed by the General Assembly;

428 4c. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of
429 Virginia Transportation Program Revenue Bonds" secured, subject to their appropriation by the General
430 Assembly, first from (i) any revenues received from the Commonwealth Transit Capital Fund established
431 by the General Assembly pursuant to ~~subdivision A 4 of § 58.1-638~~ *subdivision D 7 of § 58.1-2425.1*,
432 (ii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iii) such
433 other funds which may be appropriated by the General Assembly. No bonds for any project or projects
434 shall be issued under the authority of this subsection unless such project or projects are specifically
435 included in a bill or resolution passed by the General Assembly;

436 4d. Issue revenue bonds of the Commonwealth from time to time to be known and designated as
437 "Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes" secured, subject to
438 their appropriation by the General Assembly, (i) first from any federal highway reimbursements and any
439 other federal highway assistance received from time to time by the Commonwealth, (ii) then, at the
440 discretion of the Board, to the extent required, from legally available revenues of the Transportation
441 Trust Fund, and (iii) then from such other funds, if any, which are designated by the General Assembly
442 for such purpose;

443 5. Fix and collect tolls and other charges for the use of such projects or to refinance the cost of such
444 projects;

445 6. Construct grade separations at intersections of any projects with public highways, streets or other
446 public ways or places and change and adjust the lines and grades thereof so as to accommodate the
447 same to the design of such grade separations, the cost of such grade separations and any damage
448 incurred in changing and adjusting the lines and grades of such highways, streets, ways and places to be
449 ascertained and paid by the Board as a part of the cost of the project;

450 7. Vacate or change the location of any portion of any public highway, street or other public way or
451 place and reconstruct the same at such new location as the Board deems most favorable for the project
452 and of substantially the same type and in as good condition as the original highway, streets, way or
453 place, the cost of such reconstruction and any damage incurred in vacating or changing the location
454 thereof to be ascertained and paid by the Board as a part of the cost of the project. Any public highway,
455 street or other public way or place vacated or relocated by the Board shall be vacated or relocated in the
456 manner provided by law for the vacation or relocation of public roads and any damages awarded on
457 account thereof may be paid by the Board as a part of the cost of the project;

458 8. Make reasonable regulations for the installation, construction, maintenance, repair, renewal and
459 relocation of pipes, mains, sewers, conduits, cables, wires, towers, poles and other equipment and
460 appliances herein called "public utility facilities," of the Commonwealth and of any municipality, county,
461 or other political subdivision, public utility or public service corporation owning or operating the same
462 in, on, along, over or under the project. Whenever the Board determines that it is necessary that any
463 such public utility facilities should be relocated or removed, the Commonwealth or such municipality,
464 county, political subdivision, public utility or public service corporation shall relocate or remove the
465 same in accordance with the order of the Board. The cost and expense of such relocation or removal,
466 including the cost of installing such public utility facilities in a new location or locations, and the cost
467 of any lands or any rights or interests in lands, and any other rights acquired to accomplish such
468 relocation or removal shall be ascertained by the Board.

469 On any toll project, the Board shall pay the cost and expense of relocation or removal as a part of
470 the cost of the project for those public utility facilities owned or operated by the Commonwealth or such
471 municipality, county, political subdivision, public utility or public service corporation. On all other
472 projects, under this article, the Board shall pay the cost and expense of relocation or removal as a part
473 of the cost of the project for those public utility facilities owned or operated by the Commonwealth or
474 such municipality, county, or political subdivision. The Commonwealth or such municipality, county,
475 political subdivision, public utility or public service corporation may maintain and operate such public
476 utility facilities with the necessary appurtenances, in the new location or locations, for as long a period
477 and upon the same terms and conditions as it had the right to maintain and operate such public utility
478 facilities in their former location or locations;

479 9. Acquire by the exercise of the power of eminent domain any lands, property, rights, rights-of-way,
480 franchises, easements and other property, including public lands, parks, playgrounds, reservations,
481 highways or parkways, or parts thereof or rights therein, of any municipality, county or other political
482 subdivision, deemed necessary or convenient for the construction or the efficient operation of the project
483 or necessary in the restoration, replacement or relocation of public or private property damaged or
484 destroyed.

485 The cost of such projects shall be paid solely from the proceeds of Commonwealth of Virginia Toll
486 or Transportation Contract Revenue Bonds or a combination thereof or from such proceeds and from
487 any grant or contribution which may be made thereto pursuant to the provisions of this article; and

10. Notwithstanding any provision of this article to the contrary, the Board shall be authorized to exercise the powers conferred herein, in addition to its general powers to acquire rights-of-way and to construct, operate and maintain state highways, with respect to any project which the General Assembly has authorized or may hereafter authorize to be financed in whole or in part through the issuance of bonds of the Commonwealth pursuant to the provisions of Section 9 (c) of Article X of the Constitution of Virginia.

§ 33.1-418. Allocation of funds to districts.

The local governing body of any locality in which a district has been created pursuant to this chapter may advance funds or provide matching funds from money not otherwise specifically allocated or obligated. Such funds may be received or generated from whatever source, including, without limitation, general revenues, special fees and assessments, state allocations, and contributions from private sources to a local district to assist the local district to undertake the transportation improvements for which it was created. To assist the district with an approved transportation improvement, the Commonwealth Transportation Board may allocate to a district created pursuant to this chapter only funds allocated, pursuant to Article 1.1 (§ 33.1-23.01 et seq.) of Chapter 1 of Title 33.1; and ~~subsection A of § 58.1-638~~ § 58.1-2425.1, to the construction districts and localities in which such transportation district is located.

§ 33.1-439. Allocation of funds to districts.

The governing body of any county or town council of any participating town in which a district has been created pursuant to this chapter may advance funds or provide matching funds from money not otherwise specifically allocated or obligated. Such funds may be received or generated from whatever source, including, without limitation, general revenues, special fees and assessments, state allocations, and contributions from private sources to a local district to assist the local district to undertake the transportation improvements for which it was created. To assist the district with an approved transportation improvement, the Commonwealth Transportation Board may allocate to a district created pursuant to this chapter only funds allocated, pursuant to Article 1.1 (§ 33.1-23.01 et seq.) of Chapter 1 of Title 33.1; and ~~subsection A of § 58.1-638~~ § 58.1-2425.1, to the construction districts and localities in which such transportation district is located.

§ 46.2-694. Fees for vehicles designed and used for transportation of passengers; weights used for computing fees; burden of proof.

A. The annual registration fees for motor vehicles, trailers, and semitrailers designed and used for the transportation of passengers on the highways in the Commonwealth are:

1. ~~Twenty-three~~ *Thirty-three* dollars for each private passenger car or motor home if the passenger car or motor home weighs 4,000 pounds or less, provided that it is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

2. ~~Twenty-eight~~ *Thirty-eight* dollars for each passenger car or motor home which weighs more than 4,000 pounds, provided that it is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

3. Thirty cents per 100 pounds or major fraction thereof for a private motor vehicle other than a motorcycle with a normal seating capacity of more than ~~ten~~ 10 adults including the driver if the private motor vehicle is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire or is not operated under a lease without a chauffeur. In no case shall the fee be less than ~~twenty-three dollars~~ \$33 if the vehicle weighs 4,000 pounds or less or ~~twenty-eight dollars~~ \$38 if the vehicle weighs more than 4,000 pounds.

4. Thirty cents per 100 pounds or major fraction thereof for a school bus. In no case shall the fee be less than ~~twenty-three dollars~~ \$33 if the vehicle weighs 4,000 pounds or less or ~~twenty-eight~~ \$38 dollars if the vehicle weighs more than 4,000 pounds.

5. ~~Twenty-three~~ *Thirty-three* dollars for each trailer or semitrailer designed for use as living quarters for human beings.

6. ~~Thirteen~~ *Twenty-three* dollars plus ~~thirty~~ 30 cents per 100 pounds or major fraction thereof for each motor vehicle, trailer, or semitrailer used as a common carrier of passengers, operating either intrastate or interstate. Interstate common carriers of interstate passengers may elect to be licensed and pay the fees prescribed in subdivision 7 of this subsection on submission to the Commissioner of a declaration of operations and equipment as he may prescribe. An additional ~~five dollars~~ \$5 shall be charged if the motor vehicle weighs more than 4,000 pounds.

7. ~~Thirteen~~ *Twenty-three* dollars plus ~~seventy~~ 70 cents per 100 pounds or major fraction thereof for each motor vehicle, trailer, or semitrailer used as a common carrier of interstate passengers if election is made to be licensed under this subsection. An additional ~~five dollars~~ \$5 shall be charged if the motor vehicle weighs more than 4,000 pounds. In lieu of the foregoing fee of ~~seventy~~ 70 cents per 100 pounds, a motor carrier of passengers, operating two or more vehicles both within and outside the Commonwealth and registered for insurance purposes with the Surface Transportation Board of the

549 United States Department of Transportation, Federal Highway Administration, may apply to the
550 Commissioner for prorated registration. Upon the filing of such application, in such form as the
551 Commissioner may prescribe, the Commissioner shall apportion the registration fees provided in this
552 subsection so that the total registration fees to be paid for such vehicles of such carrier shall be that
553 proportion of the total fees, if there were no apportionment, that the total number of miles traveled by
554 such vehicles of such carrier within the Commonwealth bears to the total number of miles traveled by
555 such vehicles within and outside the Commonwealth. Such total mileage in each instance is the
556 estimated total mileage to be traveled by such vehicles during the license year for which such fees are
557 paid, subject to the adjustment in accordance with an audit to be made by representatives of the
558 Commissioner at the end of such license year, the expense of such audit to be borne by the carrier being
559 audited. Each vehicle passing into or through Virginia shall be registered and licensed in Virginia and
560 the annual registration fee to be paid for each such vehicle shall not be less than ~~thirty-three dollars~~ \$43.
561 For the purpose of determining such apportioned registration fees, only those motor vehicles, trailers, or
562 semitrailers operated both within and outside the Commonwealth shall be subject to inclusion in
563 determining the apportionment provided for herein.

564 8. ~~Thirteen~~ *Twenty-three* dollars plus ~~eighty~~ 80 cents per 100 pounds or major fraction thereof for
565 each motor vehicle, trailer or semitrailer kept or used for rent or for hire or operated under a lease
566 without a chauffeur for the transportation of passengers. An additional fee of ~~five dollars~~ \$5 shall be
567 charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used
568 as common carriers.

569 9. ~~Twenty-three~~ *Thirty-three* dollars for a taxicab or other vehicle which is kept for rent or hire
570 operated with a chauffeur for the transportation of passengers, and which operates or should operate
571 under permits issued by the Department as required by law. An additional fee of ~~five dollars~~ \$5 shall be
572 charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used
573 as common carriers.

574 10. ~~Eighteen~~ *Twenty-eight* dollars for a motorcycle, with or without a sidecar. To this fee shall be
575 added a surcharge of ~~three dollars~~ \$3, which shall be distributed as provided in § 46.2-1191.

576 11. ~~Twenty-three~~ *Thirty-three* dollars for a bus used exclusively for transportation to and from
577 Sunday school or church, for the purpose of divine worship. If the empty weight of the vehicle exceeds
578 4,000 pounds, the fee shall be ~~twenty-eight dollars~~ \$38.

579 12. ~~Thirteen~~ *Twenty-three* dollars plus ~~seventy~~ 70 cents per 100 pounds or major fraction thereof for
580 other passenger-carrying vehicles.

581 13. An additional fee of ~~four dollars~~ \$4 per year shall be charged and collected at the time of
582 registration of each pickup or panel truck and each motor vehicle under subdivisions 1 through 12 of
583 this subsection. All funds collected pursuant to this subdivision shall be paid into the state treasury and
584 shall be set aside as a special fund to be used only for emergency medical service purposes. The
585 moneys in the special fund shall be distributed as follows:

586 a. Two and one-half percent shall be distributed to the Virginia Association of Volunteer Rescue
587 Squads;

588 b. Thirteen and one-half percent shall be distributed to the State Department of Health to support (i)
589 emergency medical services training programs (excluding advanced life support classes), (ii) advanced
590 life support training, and (iii) recruitment and retention programs (all funds for such support shall be
591 used to recruit and retain volunteer emergency medical services personnel only, including public
592 awareness campaigns, technical assistance programs, and similar activities). Any funds set aside for
593 distribution under this provision and remaining undistributed at the end of any fiscal year shall revert to
594 the Rescue Squad Assistance Fund;

595 c. Thirty-one and three-quarters percent shall be distributed to the Rescue Squad Assistance Fund;

596 d. Twenty-seven and one-quarter percent shall be available to the State Department of Health for use
597 in emergency medical services; and

598 e. Twenty-five percent shall be returned by the Comptroller to the locality wherein such vehicle is
599 registered, to provide funding for training of volunteer or salaried emergency medical service personnel
600 of licensed, nonprofit emergency medical services agencies and for the purchase of necessary equipment
601 and supplies for use in such locality for licensed, nonprofit emergency medical and rescue services.

602 The Comptroller shall clearly designate on the warrant, check, or other means of transmitting these
603 funds that such moneys are only to be used for purposes set forth in this subdivision. Such funds shall
604 be in addition to any local appropriations and local governing bodies shall not use these funds to
605 supplant local funds. Each local governing body shall report annually to the Board of Health on the use
606 of the ~~twenty-five~~ 25 percent of the funds which were returned to it. In any case in which the local
607 governing body grants the funds to a regional emergency medical services council to be distributed to
608 the licensed, nonprofit emergency medical and rescue services, the local governing body shall remain
609 responsible for the proper use of the funds. If, at the end of any fiscal year, a report on the use of the
610 ~~twenty-five~~ 25 percent of the funds for that year has not been received from a local governing body, any

funds due to that local governing body for the next fiscal year shall be retained until such time as the report has been submitted to the Board.

B. All motor vehicles, trailers, and semitrailers registered as provided in subsection B of § 46.2-646 shall pay a registration fee equal to one-twelfth of all fees required by subsection A of this section or § 46.2-697 for such motor vehicle, trailer, or semitrailer, computed to the nearest cent, multiplied by the number of months in the registration period for such motor vehicles, trailers, and semitrailers.

C. The manufacturer's shipping weight or scale weight shall be used for computing all fees required by this section to be based upon the weight of the vehicle.

D. The applicant for registration bears the burden of proof that the vehicle for which registration is sought is entitled by weight, design, and use to be registered at the fee tendered by the applicant to the Commissioner or to his authorized agent.

§ 46.2-697. Fees for vehicles not designed or used for transportation of passengers.

A. Except as otherwise provided in this section, the fee for registration of all motor vehicles not designed and used for the transportation of passengers shall be ~~thirteen dollars~~ \$23 plus an amount determined by the gross weight of the vehicle or combination of vehicles of which it is a part, when loaded to the maximum capacity for which it is registered and licensed, according to the schedule of fees set forth in this section. For each 1,000 pounds of gross weight, or major fraction thereof, for which any such vehicle is registered, there shall be paid to the Commissioner the fee indicated in the following schedule immediately opposite the weight group and under the classification established by the provisions of subsection B of § 46.2-711 into which such vehicle, or any combination of vehicles of which it is a part, falls when loaded to the maximum capacity for which it is registered and licensed. The fee for a pickup or panel truck shall be ~~twenty-three dollars~~ \$33 if its gross weight is 4,000 pounds or less, and ~~twenty-eight dollars~~ \$38 if its gross weight is 4,001 pounds through 6,500 pounds. The fee shall be ~~twenty-nine~~ \$39 dollars for any motor vehicle with a gross weight of 6,501 pounds through 10,000 pounds.

Fee Per Thousand Pounds of Gross Weight

Gross Weight Groups (pounds)	Private Carriers	For Rent or For Hire Carriers
---------------------------------	---------------------	----------------------------------

10,001 - 11,000	\$2.60	\$4.75
11,001 - 12,000	2.80	4.90
12,001 - 13,000	3.00	5.15
13,001 - 14,000	3.20	5.40
14,001 - 15,000	3.40	5.65
15,001 - 16,000	3.60	5.90
16,001 - 17,000	4.00	6.15
17,001 - 18,000	4.40	6.40
18,001 - 19,000	4.80	7.50
19,001 - 20,000	5.20	7.70
20,001 - 21,000	5.60	7.90
21,001 - 22,000	6.00	8.10
22,001 - 23,000	6.40	8.30
23,001 - 24,000	6.80	8.50
24,001 - 25,000	6.90	8.70
25,001 - 26,000	6.95	8.90
26,001 - 27,000	8.25	10.35
27,001 - 28,000	8.30	10.55
28,001 - 29,000	8.35	10.75
29,001 - 40,000	8.45	10.95
40,001 - 45,000	8.55	11.15
45,001 - 50,000	8.75	11.25
50,001 - 55,000	9.25	13.25
55,001 - 76,000	11.25	15.25
76,001 - 80,000	13.25	16.25

For all such motor vehicles exceeding a gross weight of 6,500 pounds, an additional fee of ~~five dollars~~\$5 shall be imposed.

B. In lieu of registering any motor vehicle referred to in this section for an entire licensing year, the

owner may elect to register the vehicle only for one or more quarters of a licensing year, and in such case, the fee shall be ~~twenty-five~~ 25 percent of the annual fee plus ~~five dollars~~ \$5 for each quarter that the vehicle is registered.

C. When an owner elects to register and license a motor vehicle under subsection B of this section, the provisions of §§ 46.2-646 and 46.2-688 shall not apply.

D. Notwithstanding any other provision of law, no vehicle designed, equipped, and used to tow disabled or inoperable motor vehicles shall be required to register in accordance with any gross weight other than the gross weight of the towing vehicle itself, exclusive of any vehicle being towed.

E. All registrations and licenses issued for less than a full year shall expire on the date shown on the license and registration.

§ 46.2-698. Fees for farm vehicles.

A. The fees for registration of farm motor vehicles having gross weights of 7,500 pounds or more, when such vehicles are used exclusively for farm use as defined in this section, shall be one-half of the fee per 1,000 pounds of gross weight for private carriers as calculated under the provisions of § 46.2-697 and one-half of the fee for overload permits under § 46.2-1128, but the annual registration fee to be paid for each farm vehicle shall not be less than ~~fifteen dollars~~ \$25.

B. A farm motor vehicle is used exclusively for farm use:

1. When owned by a person who is engaged either as an owner, renter, or operator of a farm of a size reasonably requiring the use of such vehicle or vehicles and when such vehicle is:

a. Used in the transportation of agricultural commodities, poultry, dairy products, or livestock of the farm he is working to market, or to other points for sale or processing, or when used to transport materials, tools, equipment, or supplies which are to be used or consumed on the farm he is working, or when used for any other transportation incidental to the regular operation of such farm;

b. Used in transporting forest products, including forest materials originating on a farm or incident to the regular operation of a farm, to the farm he is working or transporting for any purpose forest products which originate on the farm he is working; or

c. Used in the transportation of farm produce, supplies, equipment, or materials to a farm not worked by him, pursuant to a mutual cooperative agreement.

2. When the nonfarm use of such motor vehicle is limited to the personal use of the owner and his immediate family in attending church or school, securing medical treatment or supplies, or securing other household or family necessities.

C. As used in this section, the term "farm" shall include one or more farms, orchards, or ranches, but does not include a tree farm unless it is part of what otherwise is a farm.

D. The first application for registration of a vehicle under this section shall be made on forms provided by the Department and shall include:

1. The location and acreage of each farm on which the vehicle to be registered is to be used;

2. The type of agricultural commodities, poultry, dairy products or livestock produced on such farms and the approximate amounts produced annually;

3. A statement, signed by the vehicle's owner, that the vehicle to be registered will only be used for one or more of the purposes specified in subsection B of this section; and

4. Other information required by the Department;

The above information is not required for the renewal of a vehicle's registration under this section.

E. The Department shall issue appropriately designated license plates for those motor vehicles registered under this section. The manner in which such license plates are designated shall be at the discretion of the Commissioner.

F. The owner of a farm vehicle shall inform the Commissioner within ~~thirty~~ 30 days or at the time of his next registration renewal, whichever comes first, when such vehicle is no longer used exclusively for farm use as defined in this section, and shall pay the appropriate registration fee for the vehicle based on its type of operation. It shall constitute a Class 2 misdemeanor to: (i) operate or to permit the operation of any farm motor vehicle for which the fee for registration and license plates is herein prescribed on any highway in the Commonwealth without first having paid the prescribed registration fee; or (ii) operate or permit the operation of any motor vehicle, registered under this section, for purposes other than as provided under subsection B of this section; or (iii) operate as a for-hire vehicle.

G. Nothing in this section shall affect the exemptions of agricultural and horticultural vehicles under §§ 46.2-664 through 46.2-670.

H. Notwithstanding other provisions of this section, vehicles licensed under this section may be used by volunteer rescue squad members and volunteer firefighters in responding to emergency calls, in reporting for regular duty, and in attending squad meetings and drills.

§ 46.2-700. Fees for vehicles for transporting well-drilling machinery and specialized mobile equipment.

A. The fee for registration of any motor vehicle, trailer, or semitrailer on which well-drilling machinery is attached and which is permanently used solely for transporting the machinery shall be

15 ~~ten~~ dollars \$25.

B. The fee for the registration of specialized mobile equipment shall be ~~ten~~ dollars \$25. "Specialized mobile equipment" shall mean any self-propelled motor vehicle manufactured for a specific purpose, other than for the transportation of passengers or property, which is used on a job site and whose movement on any highway is incidental to the purpose for which it was designed and manufactured. The vehicle must be constructed to fall within all size and weight requirements as contained in §§ 46.2-1105, 46.2-1110, 46.2-1113 and Article 17 (§ 46.2-1122 et seq.) of Chapter 10 of this title and must be capable of maintaining sustained highway speeds of ~~forty~~40 miles per hour or more. Vehicles registered under this section shall be exempt from the requirements of § 46.2-1157.

C. Specialized mobile equipment which cannot maintain a sustained highway speed in excess of ~~forty~~40 miles per hour, and trailers or semitrailers which are designed and manufactured for a specific purpose and whose movement on the highway is incidental to the purpose for which it was manufactured and which are not designed or used to transport persons or property, shall not be required to be registered under this chapter.

§ 46.2-702.1. *Distribution of certain revenue.*

A. *An amount equivalent to the net additional revenues generated from the increases in the registration fees under §§ 46.2-694, 46.2-697, 46.2-698, and 46.2-700 effective July 1, 2004, pursuant to enactments of the 2004 Session of the General Assembly, shall be deposited by the Comptroller into the Transportation Trust Fund established under § 33.1-23.03:1 and distributed as provided in § 58.1-2425.1.*

§ 58.1-302. Definitions.

For the purpose of this chapter and unless otherwise required by the context:

"Affiliated" means two or more corporations subject to Virginia income taxes whose relationship to each other is such that (i) one corporation owns at least ~~eighty~~80 percent of the voting stock of the other or others or (ii) at least ~~eighty~~80 percent of the voting stock of two or more corporations is owned by the same interests.

"Compensation" means wages, salaries, commissions and any other form of remuneration paid or accrued to employees for personal services.

"Corporation" includes associations, joint stock companies and insurance companies.

"Domicile" means the permanent place of residence of a taxpayer and the place to which he intends to return even though he may actually reside elsewhere. In determining domicile, consideration may be given to the applicant's expressed intent, conduct, and all attendant circumstances including, but not limited to, financial independence, business pursuits, employment, income sources, residence for federal income tax purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of personal and real property owned by the applicant, motor vehicle and other personal property registration, residence for purposes of voting as proven by registration to vote, if any, and such other factors as may reasonably be deemed necessary to determine the person's domicile.

"Earned income" means wages, salaries, professional fees, or amounts received as compensation for professional services actually rendered, but does not include that part of the compensation derived by the taxpayer for personal services rendered by him to a business that represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered. Earned income does not include interest or dividend income, capital gains, income from investments, or similar types of passive income.

"Foreign source income" means:

1. Interest, other than interest derived from sources within the United States;
2. Dividends, other than dividends derived from sources within the United States;
3. Rents, royalties, license, and technical fees from property located or services performed without the United States or from any interest in such property, including rents, royalties, or fees for the use of or the privilege of using without the United States any patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like properties;
4. Gains, profits, or other income from the sale of intangible or real property located without the United States; and
5. The amount of an individual's share of net income attributable to a foreign source qualified business unit of an electing small business corporation (S corporation). For purposes of this subsection, qualified business unit shall be defined by § 989 of the Internal Revenue Code, and the source of such income shall be determined in accordance with §§ 861, 862 and 987 of the Internal Revenue Code.

In determining the source of "foreign source income," the provisions of §§ 861, 862, and 863 of the Internal Revenue Code shall be applied except as specifically provided in subsection 5 above.

"Income and deductions from Virginia sources" includes:

1. Items of income, gain, loss and deduction attributable to:
 - a. The ownership of any interest in real or tangible personal property in Virginia;

793 b. A business, trade, profession or occupation carried on in Virginia; or
794 c. Prizes paid by the Virginia Lottery Department, and gambling winnings from wagers placed or
795 paid at a location in Virginia.

796 2. Income from intangible personal property, including annuities, dividends, interest, royalties and
797 gains from the disposition of intangible personal property to the extent that such income is from
798 property employed by the taxpayer in a business, trade, profession, or occupation carried on in Virginia.

799 "Individual" means all natural persons whether married or unmarried and fiduciaries acting for
800 natural persons, but not fiduciaries acting for trusts or estates.

801 *"Intangible expenses and costs" means:*

802 1. Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or
803 indirect acquisition, use, maintenance or management, ownership, sale, exchange, lease, transfer, or any
804 other disposition of intangible property to the extent such amounts are allowed as deductions or costs in
805 determining taxable income;

806 2. Losses related to or incurred in connection directly or indirectly with factoring transactions or
807 discounting transactions;

808 3. Royalty, patent, technical and copyright fees;

809 4. Licensing fees; and

810 5. Other similar expenses and costs.

811 *"Intangible property" means patents, patent applications, trade names, trademarks, service marks,*
812 *copyrights and similar types of intangible assets, as well as money.*

813 *"Interest expenses and costs" means amounts directly or indirectly allowed as deductions under*
814 *Section 163 of the Internal Revenue Code for purposes of determining taxable income under the Internal*
815 *Revenue Code to the extent such expenses and costs are directly or indirectly for, related to, or in*
816 *connection with the direct or indirect acquisition, use, maintenance, management, ownership, sale,*
817 *exchange, lease, transfer, or disposition of intangible property.*

818 "Nonresident estate or trust" means an estate or trust which is not a resident estate or trust.

819 *"Related entity" means:*

820 1. A stockholder who is an individual, or a member of the stockholder's family enumerated in Section
821 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own,
822 directly, indirectly, beneficially or constructively, in the aggregate, at least 50 percent of the value of
823 the taxpayer's outstanding stock;

824 2. A stockholder, or a stockholder's partnership, limited liability company, estate, trust or
825 corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates,
826 trusts and corporations own directly, indirectly, beneficially or constructively, in the aggregate, at least
827 50 percent of the value of the taxpayer's outstanding stock; or

828 3. A corporation, or a party related to the corporation in a manner that would require an attribution
829 of stock from the corporation to the party or from the party to the corporation under the attribution
830 rules of Section 318 of the Internal Revenue Code, if the taxpayer owns, directly, indirectly, beneficially
831 or constructively, at least 50 percent of the value of the corporation's outstanding stock. The attribution
832 rules of Section 318 of the Internal Revenue Code shall apply for purposes of determining whether the
833 ownership requirements of this subdivision have been met.

834 *"Related member" means a person that, with respect to the taxpayer during all or any portion of the*
835 *taxable year, is a related entity, a component member as defined in Section 1563(b) of the Internal*
836 *Revenue Code, or is a person to or from whom there is attribution of stock ownership in accordance*
837 *with Section 1563(e) of the Internal Revenue Code.*

838 "Resident" applies only to natural persons and includes, for the purpose of determining liability for
839 the taxes imposed by this chapter upon the income of any taxable year every person domiciled in
840 Virginia at any time during the taxable year and every other person who, for an aggregate of more than
841 183 days of the taxable year, maintained his place of abode within Virginia, whether domiciled in
842 Virginia or not. The word "resident" shall not include any member of the United States Congress who is
843 domiciled in another state.

844 "Resident estate or trust" means:

845 1. The estate of a decedent who at his death was domiciled in the Commonwealth;

846 2. A trust created by will of a decedent who at his death was domiciled in the Commonwealth;

847 3. A trust created by or consisting of property of a person domiciled in the Commonwealth; or

848 4. A trust or estate which is being administered in the Commonwealth.

849 "Sales" means all gross receipts of the corporation not allocated under § 58.1-407, except the sale or
850 other disposition of intangible property shall include only the net gain realized from the transaction.

851 "State" means for purposes of Article 10 of this chapter any state of the United States, the District of
852 Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any
853 foreign country.

854 "Trust" or "estate" means a trust or estate, or a fiduciary thereof, which is required to file a fiduciary

income tax return under the laws of the United States.

"Virginia fiduciary adjustment" means the net amount of the applicable modifications described in § 58.1-322 (including subsection E thereof if the estate or trust is a beneficiary of another estate or trust) which relate to items of income, gain, loss or deduction of an estate or trust. The fiduciary adjustment shall not include the modification in subsection D of § 58.1-322, except that the amount of state income taxes excluded from federal taxable income shall be included. The fiduciary adjustment shall also include the modification in subsection D of § 58.1-322, regarding the deduction for the purchase of a prepaid tuition contract or contribution to a savings trust account.

§ 58.1-320. Imposition of tax.

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

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

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

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

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

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

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

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

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

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

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

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

Five and three-quarters percent on income in excess of \$17,000 for taxable years beginning on and or after January 1, 1990, but before January 1, 2004;

Five and three-quarters percent on income in excess of \$17,000 but not in excess of \$100,000 for taxable years beginning on or after January 1, 2004;

Six and one-quarter percent on income in excess of \$100,000 but not in excess of \$150,000 for taxable years beginning on or after January 1, 2004; and

Six and one-half percent on income in excess of \$150,000 for taxable years beginning on or after January 1, 2004.

§ 58.1-321. Exemptions and exclusions.

A. No tax levied pursuant to § 58.1-320 is imposed, nor any return required to be filed by:

1. A single individual where the Virginia adjusted gross income for such taxable year is less than \$3,000 for taxable years beginning before January 1, 1987; and less than \$5,000 for taxable years beginning on and or after January 1, 1987; but before January 1, 2004.

A single individual where the Virginia adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322 for such taxable year is less than \$5,000 for taxable years beginning on or after January 1, 2004.

2. An individual and spouse if their combined Virginia adjusted gross income for such taxable year is less than \$3,000 for taxable years beginning before January 1, 1987; and less than \$8,000 for taxable years beginning on and or after January 1, 1987 (or one-half of such amount in the case of a married individual filing a separate return) but before January 1, 2004.

An individual and spouse if their combined Virginia adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322 is less than \$8,000 for taxable years beginning on or after January 1, 2004 (or one-half of such amount in the case of a married individual filing a separate return) but before January 1, 2005; and less than \$9,000 for taxable years beginning on or after January 1, 2005 (or one-half of such amount in the case of a married individual filing a separate return).

For the purposes of this section "Virginia adjusted gross income" means federal adjusted gross income for the taxable years with the modifications specified in § 58.1-322 B, § 58.1-322 C and the additional deductions allowed under § 58.1-322 D 2 b and D 5 for taxable years beginning before January 1, 2004. For taxable years beginning on or after January 1, 2004, Virginia adjusted gross

916 *income means federal adjusted gross income with the modifications specified in subsections B and C of*
917 *§ 58.1-322.*

918 B. Persons in the armed forces of the United States stationed on military or naval reservations within
919 Virginia who are not domiciled in Virginia shall not be held liable to income taxation for compensation
920 received from military or naval service.

921 § 58.1-322. Virginia taxable income of residents.

922 A. The Virginia taxable income of a resident individual means his federal adjusted gross income for
923 the taxable year, which excludes combat pay for certain members of the Armed Forces of the United
924 States as provided in § 112 of the Internal Revenue Code, as amended, and with the modifications
925 specified in this section.

926 B. To the extent excluded from federal adjusted gross income, there shall be added:

927 1. Interest, less related expenses to the extent not deducted in determining federal income, on
928 obligations of any state other than Virginia, or of a political subdivision of any such other state unless
929 created by compact or agreement to which Virginia is a party;

930 2. Interest or dividends, less related expenses to the extent not deducted in determining federal
931 taxable income, on obligations or securities of any authority, commission or instrumentality of the
932 United States, which the laws of the United States exempt from federal income tax but not from state
933 income taxes;

934 3. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

935 4. The amount of a lump sum distribution from a qualified retirement plan, less the minimum
936 distribution allowance and any amount excludable for federal income tax purposes that is excluded from
937 federal adjusted gross income solely by virtue of an individual's election to use the averaging provisions
938 under § 402 of the Internal Revenue Code; and

939 5. through 8. [Repealed.]

940 9. The amount required to be included in income for the purpose of computing the partial tax on an
941 accumulation distribution pursuant to § 667 of the Internal Revenue Code.

942 C. To the extent included in federal adjusted gross income, there shall be subtracted:

943 1. Income derived from obligations, or on the sale or exchange of obligations, of the United States
944 and on obligations or securities of any authority, commission or instrumentality of the United States to
945 the extent exempt from state income taxes under the laws of the United States including, but not limited
946 to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes,
947 interest on equipment purchase contracts, or interest on other normal business transactions.

948 2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth
949 or of any political subdivision or instrumentality of this Commonwealth.

950 3. [Repealed.]

951 4. Benefits received under Title II of the Social Security Act and other benefits subject to federal
952 income taxation solely pursuant to § 86 of the Internal Revenue Code.

953 4a. Through December 31, 2000, the same amount used in computing the federal credit allowed
954 under § 22 of the Internal Revenue Code by a retiree under age 65 who qualified for such retirement on
955 the basis of permanent and total disability and who is a qualified individual as defined in § 22 (b) (2) of
956 the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of
957 subsection D of this section may not also claim a subtraction under this subdivision.

958 4b. For taxable years beginning on or after January 1, 2001, up to \$20,000 of disability income, as
959 defined in § 22 (c) (2) (B) (iii) of the Internal Revenue Code; however, any person who claims a
960 deduction under subdivision 5 of subsection D of this section may not also claim a subtraction under
961 this subdivision.

962 5. The amount of any refund or credit for overpayment of income taxes imposed by the
963 Commonwealth or any other taxing jurisdiction.

964 6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not
965 deducted for federal purposes on account of the provisions of § 280C (a) of the Internal Revenue Code.

966 7, 8. [Repealed.]

967 9. [Expired.]

968 10. Any amount included therein less than \$600 from a prize awarded by the State Lottery
969 Department.

970 11. The wages or salaries received by any person for active and inactive service in the National
971 Guard of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar
972 days of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of
973 O3 and below shall be entitled to the deductions specified herein.

974 12. Amounts received by an individual, not to exceed \$1,000 in any taxable year, as a reward for
975 information provided to a law-enforcement official or agency, or to a nonprofit corporation created
976 exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of
977 perpetrators of crimes. This provision shall not apply to the following: an individual who is an employee

of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

13. [Repealed.]

14. (Expires for taxable years beginning on and after January 1, 2004) The amount of any qualified agricultural contribution as determined in § 58.1-322.2.

15, 16. [Repealed.]

17. For taxable years beginning on and after January 1, 1995, the amount of "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C (c) of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and members of limited liability companies to the extent and in the same manner as other deductions may pass through to such partners, shareholders, and members.

18. For taxable years beginning on or after January 1, 1995, all military pay and allowances, not otherwise subtracted under this subsection, earned for any month during any part of which such member performed military service in any part of the former Yugoslavia, including the air space above such location or any waters subject to related naval operations, in support of Operation JOINT ENDEAVOR as part of the NATO Peace Keeping Force. Such subtraction shall be available until the taxpayer completes such service.

19. For taxable years beginning on and after January 1, 1996, any income received during the taxable year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or program were subject to taxation under the income tax in another state.

20. For taxable years beginning on and after January 1, 1997, any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

21. For taxable years beginning on or after January 1, 1998, all military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted or exempted under this section, earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area which is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

22. For taxable years beginning on or after January 1, 2000, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

23. Effective for all taxable years beginning on or after January 1, 2000, \$15,000 of military basic pay for military service personnel on extended active duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds \$30,000.

24. Effective for all taxable years beginning on and after January 1, 2000, the first \$15,000 of salary for each federal and state employee whose annual salary is \$15,000 or less.

25. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

26. For taxable years beginning on and after January 1, 2001, any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

27. Effective for all taxable years beginning on and after January 1, 1999, income received as a result of (i) the "Master Settlement Agreement," as defined in § 3.1-1106; (ii) the National Tobacco Grower Settlement Trust dated July 19, 1999; and (iii) the Tobacco Loss Assistance Program, pursuant to 7 C.F.R. Part 1464 (Subpart C, §§ 1464.201 through 1464.205), by (a) tobacco farmers; (b) any person holding a tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of 1938; or (c) any person having the right to grow tobacco pursuant to such a quota or allotment, but only to the extent that such income has not been subtracted pursuant to subdivision C 18 of § 58.1-402.

28. For taxable years beginning on and after January 1, 2000, items of income attributable to, derived from or in any way related to (i) assets stolen from, hidden from or otherwise lost by an

individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the proceeds from the sale of assets stolen from, hidden from or otherwise lost to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this subdivision shall only apply to an individual who was the first recipient of such items of income and who was a victim or target of Nazi persecution, or a spouse, widow, widower, or child or stepchild of such victim.

"Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by the Nazi regime who had assets stolen from, hidden from or otherwise lost as a result of any act or omission in any way relating to (i) the Holocaust; (ii) World War II and its prelude and direct aftermath; (iii) transactions with or actions of the Nazi regime; (iv) treatment of refugees fleeing Nazi persecution; or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II and its prelude and aftermath. A victim or target of Nazi persecution shall also include any individual forced into labor against his will, under the threat of death, during World War II and its prelude and direct aftermath. As used in this subdivision, "Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of Nazi invasion.

29. For taxable years beginning on and after January 1, 2002, any gain recognized as a result of the Peanut Quota Buyout Program of the Farm Security and Rural Investment Act of 2002 pursuant to 7 C.F.R. Part 1412 (Subpart H, §§ 1412.801 through 1412.811) as follows:

a. If the payment is received in installment payments pursuant to 7 C.F.R. § 1412.807(a)(2), then the entire gain recognized may be subtracted.

b. If the payment is received in a single payment pursuant to 7 C.F.R. § 1412.807(a)(3), then 20 percent of the recognized gain may be subtracted. The taxpayer may then deduct an equal amount in each of the four succeeding taxable years.

30. Effective for all taxable years beginning on and after January 1, 2002, but before January 1, 2005, the indemnification payments received by contract poultry growers and table egg producers from the U.S. Department of Agriculture as a result of the depopulation of poultry flocks because of low pathogenic avian influenza in 2002. In no event shall indemnification payments made to owners of poultry who contract with poultry growers qualify for this subtraction.

31. Effective for all taxable years beginning on or after January 1, 2001, the military death gratuity payment made after September 11, 2001, to the survivor of deceased military personnel killed in the line of duty, pursuant to Chapter 75 of Title 10 of the United States Code; however, the subtraction amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross income in accordance with § 134 of the Internal Revenue Code.

D. In computing Virginia taxable income there shall be deducted from ~~federal adjusted gross income~~ *Virginia adjusted gross income as defined in § 58.1-321*:

1. a. The amount allowable for itemized deductions for federal income tax purposes where the taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted on such federal return and increased by an amount which, when added to the amount deducted under § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for such purposes at a rate of 18 cents per mile; or

b. Two thousand dollars for taxable years beginning January 1, 1987, through December 31, 1987; \$2,700 for taxable years beginning January 1, 1988, through December 31, 1988; ~~and~~ \$5,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return); and \$3,000 for single individuals for taxable years beginning on ~~and~~ or after January 1, 1989, *but before January 1, 2005; and \$7,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return) and \$3,500 for single individuals for taxable years beginning on or after January 1, 2005*; provided that the taxpayer has not itemized deductions for the taxable year on his federal income tax return. For purposes of this section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year may compute the deduction only with respect to earned income.

2. a. A deduction in the amount of \$700 for taxable years beginning January 1, 1987, through December 31, 1987; ~~and~~; \$800 for taxable years beginning on ~~and~~ or after January 1, 1988, *but before January 1, 2005; and \$1,000 for taxable years beginning on or after January 1, 2005*, for each personal exemption allowable to the taxpayer for federal income tax purposes.

b. For taxable years beginning on ~~and~~ or after January 1, 1987, each blind or aged taxpayer as defined under § 63 (f) of the Internal Revenue Code shall be entitled to an additional personal exemption *in the amount of \$800 for the taxable year*.

b. An additional deduction of \$200 for taxable years beginning January 1, 1987, through December 31, 1987, for each blind or aged taxpayer as defined under § 63 (f) of the Internal Revenue Code. The additional deduction for blind or aged taxpayers allowed under this subdivision and the additional personal exemption allowed to blind or aged taxpayers under subdivision 2 a of this subsection shall be allowable regardless of whether the taxpayer itemizes deductions for the taxable year for federal income tax purposes.

3. A deduction equal to the amount of employment-related expenses upon which the federal credit is based under § 21 of the Internal Revenue Code for expenses for household and dependent care services necessary for gainful employment.

4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home under permanent foster care placement as defined in § 63.2-908, provided the taxpayer can also claim the child as a personal exemption under § 151 of the Internal Revenue Code.

5. Effective for all taxable years beginning on or after January 1, 1996, *but before January 1, 2004*, a deduction in the amount of \$12,000 for taxpayers age 65 or older, or \$6,000 for taxpayers age 62 through 64.

a. Effective for all taxable years beginning on or after January 1, 2004, but before January 1, 2011, a deduction in the amount of \$6,000 for taxpayers age 62 through 64 and \$12,000 for taxpayers age 65 or older. This deduction shall be reduced by \$1 for each \$1 by which the taxpayer's modified federal adjusted gross income exceeds \$40,000 for single taxpayers and \$64,000 for married taxpayers.

b. Effective for all taxable years beginning on or after January 1, 2011, a deduction in the amount of \$6,000 for taxpayers born on or before January 1, 1949, who have not reached their retirement age in the taxable year, and \$12,000 for taxpayers who are at their retirement age or older in the taxable year. This deduction shall be reduced by \$1 for each \$1 by which the taxpayer's modified federal adjusted gross income exceeds \$40,000 for single taxpayers and \$64,000 for married taxpayers.

c. For married taxpayers filing separately, whether or not on a combined return, with combined modified federal adjusted gross income of both spouses in excess of \$64,000 for the taxable year, the age deduction allowed herein for each individual spouse shall be reduced by \$1 for each \$2 by which combined modified federal adjusted gross income exceeds \$64,000. In no event shall this subdivision be interpreted to grant a taxpayer a deduction for age that is not otherwise allowed under subdivisions D 5 a or D 5 b.

d. For the purposes of subdivisions D 5 a, D 5 b, and D 5 c, "modified federal adjusted gross income" means federal adjusted gross income minus any benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code, as amended.

e. For purposes of subdivision D 5 b, "retirement age" means the same as such term is defined under 42 U.S.C. § 416, as may be amended from time to time.

6. For taxable years beginning on and after January 1, 1997, the amount an individual pays as a fee for an initial screening to become a possible bone marrow donor, if (i) the individual is not reimbursed for such fee or (ii) the individual has not claimed a deduction for the payment of such fee on his federal income tax return.

7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed during the taxable year for a prepaid tuition contract or savings trust account entered into with the Virginia College Savings Plan, pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. Except as provided in subdivision 7 c, the amount deducted on any individual income tax return in any taxable year shall be limited to \$2,000 per prepaid tuition contract or savings trust account. No deduction shall be allowed pursuant to this section if such payments or contributions are deducted on the purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a savings trust account exceeds \$2,000, the remainder may be carried forward and subtracted in future taxable years until the purchase price or savings trust contribution has been fully deducted; however, except as provided in subdivision 7 c, in no event shall the amount deducted in any taxable year exceed \$2,000 per contract or savings trust account. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision, the term "purchaser" or "contributor" means the person shown as such on the records of the Virginia College Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or savings trust account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or savings trust account, including, but not limited to, carryover and recapture of deductions.

b. The amount paid for a prepaid tuition contract during taxable years beginning on or after January 1, 1996, but before January 1, 1998, shall be deducted in taxable years beginning on or after January 1,

1998, and shall be subject to the limitations set out in subdivision 7 a.

c. A purchaser of a prepaid tuition contract or contributor to a savings trust account who has attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$2,000 per prepaid tuition contract or savings trust account in any taxable year. Such taxpayer shall be allowed a deduction for the full amount paid for the contract or contributed to a savings trust account, less any amounts previously deducted. If a prepaid tuition contract was purchased by such taxpayer during taxable years beginning on or after January 1, 1996, but before January 1, 1998, such taxpayer may take the deduction for the full amount paid during such years, less any amounts previously deducted with respect to such payments, in taxable year 1999 or by filing an amended return for taxable year 1998.

8. For taxable years beginning on and after January 1, 2000, the total amount an individual actually contributed in funds to the Virginia Public School Construction Grants Program and Fund, established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1, provided the individual has not claimed a deduction for such amount on his federal income tax return.

9. For taxable years beginning on and after January 1, 1999, an amount equal to 20 percent of the tuition costs incurred by an individual employed as a primary or secondary school teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1 to attend continuing teacher education courses that are required as a condition of employment; however, the deduction provided by this subsection shall be available only if (i) the individual is not reimbursed for such tuition costs and (ii) the individual has not claimed a deduction for the payment of such tuition costs on his federal income tax return.

10. For taxable years beginning on and after January 1, 2000, the amount an individual pays annually in premiums for long-term health care insurance, provided the individual has not claimed a deduction for federal income tax purposes.

E. There shall be added to or subtracted from federal adjusted gross income, as the case may be, the individual's share, as beneficiary of an estate or trust, of the Virginia fiduciary adjustment determined under § 58.1-361.

F. There shall be added or subtracted, as the case may be, the amounts provided in § 58.1-315 as transitional modifications.

§ 58.1-324. Husband and wife.

For purposes of this section:

"Family Virginia taxable income" means, for the relevant taxable year, the combined Virginia taxable income of a husband and wife who are not legally separated.

A. If the federal taxable income of husband or wife is determined on a separate federal return, their Virginia taxable incomes shall be separately determined, *if family Virginia taxable income is less than or equal to \$100,000.*

B. *If family Virginia taxable income exceeds \$100,000 for the taxable year, the individual income tax shall be calculated on the family Virginia taxable income, and each spouse shall be jointly and severally liable for such tax except as provided in subdivision B 2.*

1. *In cases where both spouses have earned income as such term is defined in § 58.1-302, a two-earner adjustment shall be applied to reduce the calculated tax liability on the following basis:*

<i>If taxable income is:</i>	<i>The deduction shall</i>
<i>equal:</i>	
<i>In excess of \$100,000</i>	
<i>but not in excess of \$125,000</i>	<i>4.5 percent two-earner credit</i>
<i>In excess of \$125,000</i>	
<i>but not in excess of \$150,000</i>	<i>4 percent two-earner credit</i>
<i>In excess of \$150,000</i>	
<i>but not in excess of \$200,000</i>	<i>3 percent two-earner credit</i>
<i>In excess of \$200,000</i>	
<i>but not in excess of \$300,000</i>	<i>2 percent two-earner credit</i>
<i>In excess of \$300,000</i>	<i>1 percent two-earner credit,</i>

not to exceed a maximum

credit of \$1,132

-

INTRODUCED

SB635

2. In cases where family Virginia taxable income exceeds \$100,000 for the taxable year and separate income tax returns are filed, each spouse shall be severally liable for the tax calculated on family Virginia taxable income on a pro rata basis. Each spouse's individual income tax liability shall be that portion of the income tax on family Virginia taxable income as the spouse's Virginia taxable income for the taxable year bears to the combined Virginia taxable income of both spouses for the taxable year.

BC. If the federal taxable income of husband and wife is determined on a joint federal return, or if neither files a federal return:

1. Their tax shall be determined on their joint Virginia taxable income; or

2. Separate taxes may be determined on their separate Virginia taxable incomes if they so elect, and the family Virginia taxable income is less than or equal to \$100,000.

CD. Where husband and wife have not separately reported and claimed items of income, exemptions and deductions for federal income tax purposes, and have not elected to file a joint Virginia income tax return, such items allowable for Virginia income tax purposes shall be allocated and adjusted as follows:

1. Income shall be allocated to the spouse who earned the income or with respect to whose property the income is attributable.

2. Allowable deductions with respect to trade, business, production of income, or employment shall be allocated to the spouse to whom attributable.

3. Nonbusiness deductions, where properly taken for federal income tax purposes, shall be allowable for Virginia income tax purposes, but shall be allocable between husband and wife as they may mutually agree. For this purpose, "nonbusiness deductions" consist of allowable deductions not described in subdivision 2 of this subsection.

4. Where the standard deduction or low income allowance is properly taken pursuant to subdivision D 1 a of § 58.1-322 such deduction or allowance shall be allocable between husband and wife as they may mutually agree.

5. Personal exemptions properly allowable for federal income tax purposes shall be allocated for Virginia income tax purposes as husband and wife may mutually agree; however, exemptions for taxpayer and spouse together with exemptions for old age and blindness must be allocated respectively to the spouse to whom they relate.

DE. Where allocations are permitted to be made under subsection C D pursuant to agreement between husband and wife, and husband and wife have failed to agree as to those allocations, such allocations shall be made between husband and wife in a manner corresponding to the treatment for federal income tax purposes of the items involved, under regulations prescribed by the Department of Taxation.

§ 58.1-339.8. Income tax credit for low-income taxpayers.

A. As used in this section, unless the context requires otherwise:

"Family Virginia adjusted gross income" means the combined Virginia adjusted gross income of an individual, the individual's spouse, and any person claimed as a dependent on the individual's or his spouse's income tax return for the taxable year.

"Poverty guidelines" means the poverty guidelines for the ~~forty-eight~~ 48 contiguous states and the District of Columbia updated annually in the Federal Register by the U.S. Department of Health and Human Services under the authority of § 673 (2) of the Omnibus Budget Reconciliation Act of 1981.

"Virginia adjusted gross income" has the same meaning as the term is defined in § 58.1-321.

B. 1. For taxable years beginning on and after January 1, 2000, any individual or persons filing a joint return whose family Virginia adjusted gross income does not exceed ~~one hundred~~ 100 percent of the poverty guideline amount corresponding to a household of an equal number of persons as listed in the poverty guidelines published during such taxable year, shall be allowed a credit against the tax levied pursuant to § 58.1-320 in an amount equal to \$300 each for the individual, the individual's spouse, and any person claimed as a dependent on the individual's or married persons' income tax return for the taxable year. For any taxable year in which a husband and wife file separate Virginia income tax returns, the credit provided under this section shall be allowed against the tax for only one of such two tax returns. Additionally, the credit provided under this section shall not be allowed against such tax of a dependent of the individual or of married persons.

2. For taxable years beginning on or after January 1, 2005, any individual or married persons, eligible for a tax credit pursuant to § 32 of the Internal Revenue Code, may for the taxable year, in lieu of the credit authorized under subdivision B 1, claim a credit against the tax imposed pursuant to § 58.1-320 in an amount equal to 20 percent of the credit claimed by the individual or married persons

1283 for federal individual income taxes pursuant to § 32 of the Internal Revenue Code for the taxable year.
1284 In no case shall a household be allowed a credit pursuant to this subdivision and subdivision B 1 for
1285 the same taxable year.

1286 For purpose of this subdivision, "household" means an individual and in the case of married
1287 persons, the individual and his spouse regardless of whether or not the individual and his spouse file
1288 combined or separate Virginia individual income tax returns.

1289 C. The amount of the credit provided pursuant to ~~this section~~ subsection B for any taxable year shall
1290 not exceed the individual's or married persons' Virginia income tax liability.

1291 D. Notwithstanding any other provision of this section, ~~such~~ no credit shall ~~not~~ be allowed pursuant
1292 to subsection B in any taxable year in which the individual, the individual's spouse, or both, or any
1293 person claimed as a dependent on such individual's or married persons' income tax return, claims one or
1294 any combination of the following on his or their income tax return for such taxable year:

- 1295 1. The subtraction under subdivision C 11 of § 58.1-322;
- 1296 2. The subtraction under subdivision C 23 of § 58.1-322;
- 1297 3. The subtraction under subdivision C 24 of § 58.1-322;
- 1298 4. The deduction for the additional personal exemption for blind or aged taxpayers under subdivision

1299 D 2 a b of § 58.1-322; or

- 1300 5. The deduction under subdivision D 5 of § 58.1-322.

1301 § 58.1-341. Returns of individuals.

1302 A. On or before May 1 of each year if an individual's taxable year is the calendar year, or on or
1303 before the fifteenth day of the fourth month following the close of a taxable year other than the calendar
1304 year, an income tax return under this chapter shall be made and filed by or for:

- 1305 1. Every resident individual, except as provided in § 58.1-321, required to file a federal income tax
1306 return for the taxable year, or having Virginia taxable income for the taxable year;

- 1307 2. Every nonresident individual having Virginia taxable income for the taxable year, except as
1308 provided in § 58.1-321.

1309 B. If the federal income tax liability of husband or wife is determined on a separate federal return,
1310 their Virginia income tax liabilities and returns shall be separate *except as provided under § 58.1-324*. If
1311 the federal income tax liabilities of husband and wife (other than a husband and wife described in
1312 subdivision 2 of subsection A) are determined on a joint federal return, or if neither files a federal
1313 return:

- 1314 1. They shall file a joint Virginia income tax return, and their tax liabilities shall be joint and
1315 several; or

- 1316 2. They may elect to file separate Virginia income tax returns if they comply with the requirements
1317 of the Department in setting forth information (whether or not on a single form), in which event their
1318 tax liabilities shall be separate, *except as provided under § 58.1-324* or unless such husband and wife
1319 file separately on a combined return. The election permitted under this subsection may be made or
1320 changed at any time within three years from the last day prescribed by law for the timely filing of the
1321 return.

1322 C. If either husband or wife is a resident and the other is a nonresident, they shall file separate
1323 Virginia income tax returns on such single or separate forms as may be required by the Department, in
1324 which event their tax liabilities shall be separate except as provided in subsection D, unless both elect to
1325 determine their joint Virginia taxable income as if both were residents, in which event their tax
1326 liabilities shall be joint and several.

1327 D. If husband and wife file separate Virginia income tax returns on a single form pursuant to
1328 subsection B or C, and:

- 1329 1. If the sum of the payments by either spouse, including withheld and estimated taxes, exceeds the
1330 amount of the tax for which such spouse is separately liable, the excess may be applied by the
1331 Department to the credit of the other spouse if the sum of the payments by such other spouse, including
1332 withheld and estimated taxes, is less than the amount of the tax for which such other spouse is
1333 separately liable;

- 1334 2. If the sum of the payments made by both spouses with respect to the taxes for which they are
1335 separately liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of
1336 the excess may be made payable to both spouses.

1337 The provisions of this subsection shall not apply if the return of either spouse includes a demand that
1338 any overpayment made by him or her shall be applied only on account of his or her separate liability.

1339 E. The return for any deceased individual shall be made and filed by his executor, administrator, or
1340 other person charged with his property.

1341 F. The return for an individual who is unable to make a return by reason of minority or other
1342 disability shall be made and filed by his guardian, committee, fiduciary or other person charged with the
1343 care of his person or property (other than a receiver in possession of only a part of his property), or by
1344 his duly authorized agent.

§ 58.1-390.1. Definitions.

The following words and terms, when used in this article, shall have the following meanings unless the context clearly indicates otherwise:

"Pass-through entity" means any entity, including a limited partnership, a limited liability partnership, a general partnership, a limited liability company, a professional limited liability company, a business trust or a Subchapter S corporation, that is recognized as a separate entity for federal income tax purposes, in which the partners, members or shareholders report their share of the income, gains, losses, deductions and credits from the entity on their federal income tax returns.

"Owner" means any individual or entity who is treated as a partner, member, or shareholder of a pass-through entity for federal income tax purposes.

§ 58.1-390.2. Taxation of pass-through entities.

Except as provided for in this article, owners of pass-through entities shall be liable for tax under this chapter only in their separate or individual capacities.

§ 58.1-391. Virginia taxable income of owners of a pass-through entity.

A. In determining Virginia taxable income of a ~~partner~~ an owner of a pass-through entity, any modification described in § 58.1-322 ~~which~~ that relates to an item of ~~partnership~~pass-through entity income, gain, loss or deduction shall be made in accordance with the ~~partner's~~owner's distributive share, for federal income tax purposes, of the item to which the modification relates. Where a ~~partner's~~an owner's distributive share of any such item is not included in any category of income, gain, loss or deduction required to be taken into account separately for federal income tax purposes, the ~~partner's~~owner's distributive share of such item shall be determined in accordance with his distributive share, for federal income tax purposes, of ~~partnership~~pass-through entity taxable income or loss.

B. Each item of ~~partnership~~pass-through entity income, gain, loss or deduction shall have the same character for a ~~partner~~an owner under this chapter as for federal income tax purposes. Where an item is not characterized for federal income tax purposes, it shall have the same character for a ~~partner~~an owner as if realized directly from the source from which realized by the ~~partnership~~ pass-through entity or incurred in the same manner by the ~~partnership~~pass-through entity.

C. Where a ~~partner's~~an owner's distributive shares of an item of ~~partnership~~pass-through entity income, gain, loss or deduction is determined for federal income tax purposes by special provision in the ~~partnership~~pass-through entity agreement with respect to such item, and where the principal purpose of such provision is the avoidance or evasion of tax under this chapter, the ~~partner's~~owner's distributive share of such item, and any modification required with respect thereto, shall be determined as if the ~~partnership~~pass-through entity agreement made no special provision with respect to such item.

§ 58.1-392. Reports by pass-through entities.

No report shall be required to be filed with the Department of Taxation by any partnership organized under the laws of the Commonwealth or having income from Virginia sources. However, the Tax Commissioner shall have the authority to promulgate regulations requiring that partnerships furnish copies of federal partnership returns and attached schedules or any other information which he deems necessary. In promulgating such regulations, the Tax Commissioner may prescribe the imposition of a penalty in the amount of \$100 for failure to comply, within a reasonable time, to the request for information as set forth therein.

A. Every pass-through entity doing business in Virginia, or having income from Virginia sources, shall make a return to the Department of Taxation on or before the fifteenth day of the fourth month following the close of its taxable year. Such returns shall be made and filed in the manner prescribed by the Department.

B. The return of a pass-through entity shall be signed by any one of the owners. An owner's name signed on the return shall be prima facie evidence that such owner is authorized to sign the return on behalf of the pass-through entity.

C. The Tax Commissioner may establish an income threshold for the filing of returns by pass-through entities and their owners. Pass-through entities and owners with income below this threshold shall not be required to file a return.

D. Receivers, trustees in dissolution, trustees in bankruptcy, and assignees operating the property or business of pass-through entities must make and file returns of income for such pass-through entities. If a receiver has full custody of and control over the business or property of a pass-through entity, he shall be deemed to be operating such business or property, whether he is engaged in carrying on the business for which the pass-through entity was organized or only in marshaling, selling, or disposing of its assets for purposes of liquidation.

E. Pass-through entities may be required to file the return using an electronic medium prescribed by the Tax Commissioner. The Tax Commissioner shall establish a minimum number of owners for the electronic filing requirement. Waivers shall be granted only if the Tax Commissioner finds that the requirement creates an unreasonable burden on the pass-through entity. All requests for waivers must be

submitted to the Tax Commissioner in writing. Pass-through entities that have fewer than the established minimum number of owners may, at such pass-through entity's option, file such annual return on such prescribed electronic medium in lieu of filing the annual return on paper.

§ 58.1-393.1. Extension of time for filing return by pass-through entity.

A. Whenever any pass-through entity has been allowed or granted an extension of time within which to file any federal report of its income for any taxable year, the due date for the filing of the report or return required by this article shall be extended to the date six months after such due date, or 30 days after the extended date for filing the federal report, whichever is later.

B. In addition, the Department may grant an extension or extensions of time not to exceed a maximum of six months beyond the due date required by this article for filing such pass-through entity return.

§ 58.1-394.1. Failure of pass-through entity to make a return.

A. Any pass-through entity that fails to file a return required by this article within the time required shall be liable for a penalty of \$200 if the failure is for not more than one month, with an additional \$200 for each additional month or fraction thereof during which such failure to file continues, not exceeding six months in the aggregate. In no case, however, shall the penalty be less than \$200.

B. If any pass-through entity's failure to file a return required by this article exceeds six months, the Department shall assess a penalty of six percent of the total amount of Virginia taxable income derived by its owners from the pass-through entity for the taxable year. The Department may determine such penalty from any information in its possession. The penalty assessed pursuant to this subsection shall be reduced by the penalty assessed pursuant to subsection A and any tax paid by the owners on their share of income from the pass-through entity for the taxable year.

C. The penalties set forth in this subsection shall be assessed and collected by the Department in the manner provided for the assessment and collection of taxes under this chapter or in a civil action, at the instance of the Department. In addition, such pass-through entity shall be compellable by mandamus to file such return.

§ 58.1-394.2. Fraudulent returns, etc., of pass-through entities; penalty.

A. Any officer or owner of any pass-through entity who makes a fraudulent return or statement with the intent of assisting or facilitating the evasion of the payment of the taxes prescribed by this chapter by the pass-through entity or an owner shall be liable for a penalty of not more than \$1,000, to be assessed and collected in the manner provided for the assessment and collection of taxes under this chapter or in a civil action, at the instance of the Department.

B. In addition to other penalties provided by law, any officer or owner of a pass-through entity who makes a fraudulent return or statement with the intent of assisting or facilitating the evasion of the payment of the taxes prescribed by this chapter by the pass-through entity or an owner, or who willfully fails or refuses to make a return required by this chapter at the time or times required by law shall be guilty of a Class 1 misdemeanor. A prosecution under this section shall be commenced within five years next after the commission of the offense.

§ 58.1-395. Nonresident owners.

Pass-through entities may make written application to the Tax Commissioner for permission to file a statement of combined pass-through entity income attributable to nonresident owners and thereby relieve nonresident owners from filing individual nonresident returns. The application must state the reasons for seeking such permission. The Tax Commissioner, in his sole discretion, may, for good cause, grant permission to file a combined nonresident return upon such terms as he may determine.

§ 58.1-402. Virginia taxable income.

A. For purposes of this article, Virginia taxable income for a taxable year means the federal taxable income and any other income taxable to the corporation under federal law for such year of a corporation adjusted as provided in subsections B, C and D.

For a regulated investment company and a real estate investment trust, such term means the "investment company taxable income" and "real estate investment trust taxable income," respectively, to which shall be added in each case any amount of capital gains and any other income taxable to the corporation under federal law which shall be further adjusted as provided in subsections B, C and D.

B. There shall be added to the extent excluded from federal taxable income:

1. Interest, less related expenses to the extent not deducted in determining federal taxable income, on obligations of any state other than Virginia, or of a political subdivision of any such other state unless created by compact or agreement to which the Commonwealth is a party;

2. Interest or dividends, less related expenses to the extent not deducted in determining federal taxable income, on obligations or securities of any authority, commission or instrumentality of the United States, which the laws of the United States exempt from federal income tax but not from state income taxes;

3. [Repealed.]

4. The amount of any net income taxes and other taxes, including franchise and excise taxes, which

are based on, measured by, or computed with reference to net income, imposed by the Commonwealth or any other taxing jurisdiction, to the extent deducted in determining federal taxable income;

5. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

6. The amount of employee stock ownership credit carry-over deducted by the corporation in computing federal taxable income under § 404 (i) of the Internal Revenue Code;

7. The amount required to be included in income for the purpose of computing the partial tax on an accumulation distribution pursuant to § 667 of the Internal Revenue Code.

8. *a. For taxable years beginning on or after January 1, 2004, the amount of any interest expenses and costs and intangible expenses and costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with one or more related members to the extent such expenses and costs were deductible or deducted in computing federal taxable income for Virginia purposes. This addition shall not be required for any portion of the interest expenses and costs and intangible expenses and costs if one of the following applies:*

1. The corresponding item of income received by the related member is subject to a tax based on or measured by net income imposed by Virginia, another state, or a foreign government that has entered into a comprehensive tax treaty with the United States government, or

2. The corporation can establish to the satisfaction of the Tax Commissioner that the interest expenses and costs and intangible expenses and costs meet both of the following: (i) the related member during the same taxable year directly or indirectly paid, accrued or incurred such portion to a person who is not a related member, and (ii) the transaction giving rise to the interest expenses and costs or the intangible expenses and costs between the corporation and the related member did not have as a principal purpose the avoidance of any portion of the tax due under this chapter.

b. Nothing in this subdivision shall be construed to limit or negate the Department's authority under § 58.1-446.

C. There shall be subtracted to the extent included in and not otherwise subtracted from federal taxable income:

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States including, but not limited to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth or of any political subdivision or instrumentality of this Commonwealth.

3. Dividends upon stock in any domestic international sales corporation, as defined by § 992 of the Internal Revenue Code, 50 percent or more of the income of which was assessable for the preceding year, or the last year in which such corporation has income, under the provisions of the income tax laws of the Commonwealth.

4. The amount of any refund or credit for overpayment of income taxes imposed by this Commonwealth or any other taxing jurisdiction.

5. Any amount included therein by the operation of the provisions of § 78 of the Internal Revenue Code (foreign dividend gross-up).

6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not deducted for federal purposes on account of the provisions of § 280C (a) of the Internal Revenue Code.

7. Any amount included therein by the operation of § 951 of the Internal Revenue Code (subpart F income).

8. Any amount included therein which is foreign source income as defined in § 58.1-302.

9. [Repealed.]

10. The amount of any dividends received from corporations in which the taxpaying corporation owns 50 percent or more of the voting stock.

11. [Repealed.]

12. [Expired.]

13. (Expires for taxable years beginning on and after January 1, 2004) The amount of any qualified agricultural contribution as determined in § 58.1-322.2.

14. For taxable years beginning on or after January 1, 1995, the amount for "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C (c) of the Internal Revenue Code.

15. For taxable years beginning on or after January 1, 2000, the total amount actually contributed in funds to the Virginia Public School Construction Grants Program and Fund established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1.

16. For taxable years beginning on or after January 1, 2000, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the

1529 real property or the easement thereto being devoted to open-space use, as that term is defined in
1530 § 58.1-3230, for a period of time not less than 30 years. To the extent a subtraction is taken in
1531 accordance with this subdivision, no tax credit under this chapter for donating land for its preservation
1532 shall be allowed for three years following the year in which the subtraction is taken.

1533 17. For taxable years beginning on and after January 1, 2001, any amount included therein with
1534 respect to § 58.1-440.1.

1535 18. For taxable years beginning on and after January 1, 1999, income received as a result of (i) the
1536 "Master Settlement Agreement," as defined in § 3.1-1106; (ii) the National Tobacco Grower Settlement
1537 Trust dated July 19, 1999; and (iii) the Tobacco Loss Assistance Program, pursuant to 7 C.F.R. Part
1538 1464 (Subpart C, §§ 1464.201 through 1464.205), by (a) tobacco farming businesses; (b) any business
1539 holding a tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural
1540 Adjustment Act of 1938; or (c) any business having the right to grow tobacco pursuant to such a quota
1541 allotment.

1542 19. Effective for all taxable years beginning on and after January 1, 2002, but before January 1,
1543 2005, the indemnification payments received by contract poultry growers and table egg producers from
1544 the U.S. Department of Agriculture as a result of the depopulation of poultry flocks because of low
1545 pathogenic avian influenza in 2002. In no event shall indemnification payments made to owners of
1546 poultry who contract with poultry growers qualify for this subtraction.

1547 20. For taxable years beginning on and after January 1, 2002, any gain recognized as a result of the
1548 Peanut Quota Buyout Program of the Farm Security and Rural Investment Act of 2002 pursuant to 7
1549 C.F.R. Part 1412 (Subpart H, §§ 1412.801 through 1412.811) as follows:

1550 a. If the payment is received in installment payments pursuant to 7 C.F.R. § 1412.807(a)(2), then the
1551 entire gain recognized may be subtracted.

1552 b. If the payment is received in a single payment pursuant to 7 C.F.R. § 1412.807(a)(3), then 20
1553 percent of the recognized gain may be subtracted. The taxpayer may then deduct an equal amount in
1554 each of the four succeeding taxable years.

1555 D. Adjustments to federal taxable income shall be made to reflect the transitional modifications
1556 provided in § 58.1-315.

1557 § 58.1-415. When sales of tangible personal property deemed in the Commonwealth.

1558 Sales of tangible personal property are in the Commonwealth if (i) such property is received in the
1559 Commonwealth by the purchaser, or (ii) *the property is shipped from an office, store, warehouse,*
1560 *factory, or place of storage in the Commonwealth; and the taxpayer is not taxable in the state of the*
1561 *purchaser.* In the case of delivery by common carrier or other means of transportation, the place at
1562 which such property is ultimately received after all transportation has been completed shall be
1563 considered as the place at which such property is received by the purchaser. Direct delivery in the
1564 Commonwealth, other than for purposes of transportation, to a person or firm designated by a purchaser,
1565 constitutes delivery to the purchaser in the Commonwealth, and direct delivery outside the
1566 Commonwealth to a person or firm designated by the purchaser does not constitute delivery to the
1567 purchaser in the Commonwealth, regardless of where title passes, or other conditions of sale.

1568 § 58.1-441. Reports by corporations.

1569 A. Every corporation organized under the laws of the Commonwealth, or having income from
1570 Virginia sources, *other than a Subchapter S corporation subject to the return filing requirements of*
1571 *§ 58.1-392,* shall make a report to the Department on or before the fifteenth day of the fourth month
1572 following the close of its taxable year. Such reports shall be made on forms prescribed by the
1573 Department and shall contain such information, including the gross receipts from any business carried on
1574 in the Commonwealth and a depreciation schedule of property used in such trade or business, as may be
1575 necessary for the proper enforcement of this chapter and be accompanied by a copy of any federal tax
1576 return or report filed for such taxable year. The Department shall not require any nonprofit organization
1577 created exclusively to assist a law-enforcement official or agency in apprehending and convicting
1578 perpetrators of crimes, to report on such returns, or otherwise, the names of individuals or amounts paid
1579 to such individuals by the organization for providing information about certain crimes.

1580 Receivers, trustees in dissolution, trustees in bankruptcy, and assignees, operating the property or
1581 business of corporations must make returns of income for such corporations. If a receiver has full
1582 custody of and control over the business or property of a corporation, he shall be deemed to be
1583 operating such business or property, whether he is engaged in carrying on the business for which the
1584 corporation was organized or only in marshaling, selling, or disposing of its assets for purposes of
1585 liquidation.

1586 B. Notwithstanding the provisions of subsection A, every organization to whom subdivision 5 of
1587 § 58.1-401 applies, and having unrelated business taxable income or other taxable income, shall make a
1588 report to the Department on or before the fifteenth day of the sixth month following the close of the
1589 organization's taxable year.

1590 § 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~~ *four* and one-half percent:

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

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

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

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

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

§ 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~~ *four* and one-half percent:

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

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

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

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

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

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

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

For purposes of this section the words "motor vehicle" means any vehicle which is self-propelled and designed primarily for use upon the highways, any vehicle which is propelled by electric power obtained from trolley wires but not operated upon rails, and any vehicle designed to run upon the highways which is pulled by a self-propelled vehicle, but shall not include any implement of husbandry, farm tractor, road construction or maintenance machinery or equipment, special mobile equipment or any vehicle designed primarily for use in work off the highway.

The tax shall be computed on the basis of such proportion of the original purchase price of such

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

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

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

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

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

"Cost," as applied to any public facility or to extensions or additions to any public facility, includes:

(i) the purchase price of any public facility acquired by the municipality or the cost of acquiring all of the capital stock of the corporation owning the public facility and the amount to be paid to discharge any obligations in order to vest title to the public facility or any part of it in the municipality; (ii) expenses incident to determining the feasibility or practicability of the public facility; (iii) the cost of plans and specifications, surveys and estimates of costs and of revenues; (iv) the cost of all land, property, rights, easements and franchises acquired; (v) the cost of improvements, property or equipment; (vi) the cost of engineering, legal and other professional services; (vii) the cost of construction or reconstruction; (viii) the cost of all labor, materials, machinery and equipment; (ix) financing charges; (x) interest before and during construction and for up to one year after completion of construction; (xi) start-up costs and operating capital; (xii) payments by a municipality of its share of the cost of any multi-jurisdictional public facility; (xiii) administrative expense; (xiv) any amounts to be deposited to reserve or replacement funds; and (xv) other expenses as may be necessary or incident to the financing of the public facility. Any obligation or expense incurred by the public facility in connection with any of the foregoing items of cost may be regarded as a part of the cost.

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

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

"Sales tax revenues" means such tax collections realized under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) of Title 58.1, as limited herein. "Sales tax revenues" does not include the revenue generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly which shall be paid to the Transportation Trust Fund as defined in ~~§ 33.1-23.03-1~~, nor shall it include the one percent of the state sales and use tax revenue distributed among the counties and cities of the Commonwealth pursuant to § 58.1-638 D on the basis of school age population. *Sales tax revenues shall also not include the revenue generated by the one percent sales and use tax increase enacted by the 2004 Session of the General Assembly.*

B. Any municipality which has issued bonds (i) after December 31, 1991, but before January 1, 1996, (ii) on or after January 1, 1998, but before July 1, 1999, (iii) on or after January 1, 1999, but before July 1, 2001, (iv) on or after July 1, 2000, but before July 1, 2003, or (v) on or after July 1, 2001, but before July 1, 2004, to pay the cost, or portion thereof, of any public facility shall be entitled

to all sales tax revenues generated by transactions taking place in such public facility. Such entitlement shall continue for the lifetime of such bonds, which entitlement shall not exceed ~~thirty~~30 years, and all such sales tax revenues shall be applied to repayment of the bonds. The State Comptroller shall remit such sales tax revenues to the municipality on a quarterly basis, subject to such reasonable processing delays as may be required by the Department of Taxation to calculate the actual net sales tax revenues derived from the public facility. The State Comptroller shall make such remittances to eligible municipalities, as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.). No such remittances shall be made until construction is completed and, in the case of a renovation or expansion, until the governing body of the municipality has certified that the renovation or expansion is completed.

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

§ 58.1-611.1. Rate of tax on sales of food purchased for human consumption.

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

1. From January 1, 2000, through ~~March 31, 2004~~ *midnight on June 30, 2004*, the tax rate on such food shall be three percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638 *as such subsection existed prior to July 1, 2004, in accordance with the law in effect at the relevant time*, (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, and (iii) the revenue from the tax at the rate of one and one-half percent shall be used for general fund purposes.

2. From April 1, 2001, through March 31, 2002, the tax rate on such food shall be two 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, (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, and (iii) the revenue from the tax at the rate of one percent shall be used for general fund purposes.

3. From April 1, 2002, through March 31, 2003, the tax rate on such food shall be two percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638, (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C 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, *On and after July 1, 2004*, 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. For the purpose of this section, "food purchased for human consumption" shall not include food sold by any retail establishment where the gross receipts derived from the sale of food prepared by such retail establishment for immediate consumption on or off the premises of the retail establishment constitutes more than 80 percent of the total gross receipts of that retail establishment, including but not limited to motor fuel purchases, regardless of whether such prepared food is consumed on the premises of that retail establishment. For purposes of this section, "retail establishment" means each place of business for which any "dealer," as defined in § 58.1-612, is required to apply for and receive a certificate of registration pursuant to § 58.1-613.

D. Notwithstanding the tax rates set forth in subsection A, the rate of tax on sales of food purchased for human consumption for any 12-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,

1775 by at least one percent; or

1776 2. Any of the events listed in subsection C of ~~§ 58.1-3524~~ or subsection B of ~~§ 58.1-3536~~ have
1777 occurred during the then current fiscal year.

1778 E. If the tax rate on food purchased for human consumption remains the same for the period January
1779 1, 2000, through March 31, 2001, and the subsequent 12-month period beginning on April 1, 2001, or
1780 with respect to any consecutive 12-month periods beginning on and after April 1, 2001, the tax rate on
1781 such food shall remain the same unless none of the conditions described in subsection D have occurred,
1782 in which event the tax rate on food purchased for human consumption for the immediately following
1783 12-month period shall be equal to the next lowest tax rate listed in subsection A.

1784 § 58.1-614. Vending machine sales.

1785 A. Notwithstanding the provisions of §§ 58.1-603 and 58.1-604, whenever a dealer makes sales of
1786 tangible personal property through vending machines, or in any other manner making collection of the
1787 tax impractical, as determined by the Tax Commissioner, such dealer shall be required to report his
1788 wholesale purchases for sale at retail from vending machines and shall be required to remit an amount
1789 based on ~~four~~ five and one-half percent of such wholesale purchases.

1790 B. Notwithstanding the provisions of §§ 58.1-605 and 58.1-606, dealers making sales of tangible
1791 personal property through vending machines shall report and remit the one percent local sales and use
1792 tax computed as provided in subsection A of this section.

1793 C. The provisions of subsections A and B of this section shall not be applicable to vending machine
1794 operators all of whose machines are under contract to nonprofit organizations. Such operators shall
1795 report only the gross receipts from machines selling items for more than ~~ten~~10 cents and shall be
1796 required to remit an amount based on a percentage of their remaining gross sales established by the Tax
1797 Commissioner to take into account the inclusion of sales tax.

1798 D. Notwithstanding any other provisions in this section or § 58.1-628, when the Tax Commissioner
1799 determines that it is impractical to collect the tax in the manner provided by those sections, such dealer
1800 shall be required to remit an amount based on a percentage of gross receipts which takes into account
1801 the inclusion of the sales tax.

1802 E. The provisions of this section shall not be applicable to any dealer who fails to maintain records
1803 satisfactory to the Tax Commissioner. A dealer making sales of tangible personal property through
1804 vending machines shall obtain a certificate of registration under § 58.1-613 in relevant form for each
1805 county or city in which he has machines.

1806 § 58.1-615. Returns by dealers.

1807 A. Every dealer required to collect or pay the sales or use tax shall, on or before the twentieth day
1808 of the month following the month in which the tax shall become effective, transmit to the Tax
1809 Commissioner a return showing the gross sales, gross proceeds, or cost price, as the case may be,
1810 arising from all transactions taxable under this chapter during the preceding calendar month, and
1811 thereafter a like return shall be prepared and transmitted to the Tax Commissioner by every dealer on or
1812 before the twentieth day of each month, for the preceding calendar month. In the case of dealers
1813 regularly keeping books and accounts on the basis of an annual period which varies ~~fifty-two~~52 to
1814 ~~fifty-three~~53 weeks, the Tax Commissioner may make rules and regulations for reporting consistent with
1815 such accounting period.

1816 Notwithstanding any other provision of this chapter, a dealer may be required by the Tax
1817 Commissioner to file sales or use tax returns on an accounting period less frequent than monthly when,
1818 in the opinion of the Tax Commissioner, the administration of the taxes imposed by this chapter would
1819 be enhanced. If a dealer is required to file other than monthly, each such return shall be due on or
1820 before the twentieth day of the month following the close of the period. Each such return shall contain
1821 all information required for monthly returns.

1822 A sales or use tax return shall be filed by each registered dealer even though the dealer is not liable
1823 to remit to the Tax Commissioner any tax for the period covered by the return.

1824 B. 1. In addition to the amounts required under the provisions of this section and § 58.1-616, any
1825 dealer as defined by § 58.1-612 or direct payment permit holder pursuant to § 58.1-624, with taxable
1826 sales and purchases of \$1,300,000 or greater for the ~~twelve~~12-month period beginning July 1, and
1827 ending June 30 of the immediately preceding calendar year, shall be required to make a payment equal
1828 to 90 percent of the sales and use tax liability for the previous June. Such tax payments shall be made
1829 on or before the 30th day of June, if payment is made by electronic funds transfer, as defined in
1830 § 58.1-202.1. If payment is made by other than electronic funds transfer, such payment shall be made on
1831 or before the ~~25th~~ twenty-fifth day of June. For purposes of this provision, taxable sales or purchases
1832 shall be computed without regard to the number of certificates of registration held by the dealer. Every
1833 dealer or direct payment permit holder shall be entitled to a credit for the payment under this subsection
1834 on the return for June of the current year due July 20. The provisions of this subsection shall not apply
1835 to persons who are required to file only a Form ST-7, Consumer User Tax Return.

1836 2. In lieu of the penalties provided in § 58.1-635, except with respect to fraudulent returns, failure to

make a timely payment or full payment of the sales and use tax liability as provided in this subsection shall subject the dealer or direct payment permit holder to a penalty of six percent of the amount of tax underpayment that should have been properly paid to the Tax Commissioner. Interest will accrue as provided in § 58.1-15. The payment required by this subsection shall become delinquent on the first day following the due date set forth in this subsection if not paid.

3. This subsection shall be effective until June 1, 2005.

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

The following brackets of prices shall be used for the collection of the tax imposed by this chapter:

\$0.00	to	\$0.14 \$0.11	no tax
.15 .12	to	.42 .33	1¢ tax
.43 .34	to	.71 .55	2¢ tax
.72 .56	to	.99 .77	3¢ tax
1.00 .78	to	1.28 .99	4¢ tax
1.29 1.00	to	1.57 1.22	5¢ tax
1.58 1.23	to	1.85 1.44	6¢ tax
1.86 1.45	to	2.14 1.66	7¢ tax
2.15 1.67	to	2.42 1.88	8¢ tax
2.43 1.89	to	2.71 2.11	9¢ tax
2.72 2.12	to	2.99 2.33	10¢ tax
3.00 2.34	to	3.28 2.55	11¢ tax
3.29 2.56	to	3.57 2.77	12¢ tax
3.58 2.78	to	3.85 2.99	13¢ tax
3.86 3.00	to	4.14 3.22	14¢ tax
4.15 3.23	to	4.42 3.44	15¢ tax
4.43 3.45	to	4.71 3.66	16¢ tax
4.72 3.67	to	5.00 3.88	17¢ tax
3.89	to	4.11	18¢ tax
4.12	to	4.33	19¢ tax
4.34	to	4.55	20¢ tax
4.56	to	4.77	21¢ tax
4.78	to	5.00	22¢ tax

On transactions ~~over five dollars~~ greater than \$5, the tax shall be computed at ~~three~~ four and one-half percent, one-half cent or more being treated as one cent. If a dealer can show to the satisfaction of the Tax Commissioner that more than ~~eighty-five~~ 85 percent of the total dollar volume of his gross

1894 taxable sales during the taxable month was from individual sales at prices of ~~ten~~10 cents or less each,
 1895 and that he was unable to adjust his prices in such manner as to prevent the economic incidence of the
 1896 sales tax from falling on him, the Tax Commissioner shall determine the proper tax liability of the
 1897 dealer based on that portion of the dealer's gross taxable sales which was from sales at prices of eleven
 1898 cents or more.

1899 § 58.1-628. Bracket system for combined state and local tax.

1900 The following brackets of prices shall be used for the collection of the combined state and local tax:

1901	\$0.00	to	\$0. 11	.09	no tax
1902					
1903	.12	.10	to	.33	.27 1¢ tax
1904					
1905	.34	.28	to	.55	.45 2¢ tax
1906					
1907	.56	.46	to	.77	.63 3¢ tax
1908					
1909	.78	.64	to	.99	.81 4¢ tax
1910					
1911	1.00	.82	to	1.22	.99 5¢ tax
1912					
1913	1.23	1.00	to	1.44	1.18 6¢ tax
1914					
1915	1.45	1.19	to	1.66	1.36 7¢ tax
1916					
1917	1.67	1.37	to	1.88	1.54 8¢ tax
1918					
1919	1.89	1.55	to	2.11	1.72 9¢ tax
1920					
1921	2.12	1.73	to	2.33	1.90 10¢ tax
1922					
1923	2.34	1.91	to	2.55	2.09 11¢ tax
1924					
1925	2.56	2.10	to	2.77	2.27 12¢ tax
1926					
1927	2.78	2.28	to	2.99	2.45 13¢ tax
1928					
1929	3.00	2.46	to	3.22	2.63 14¢ tax
1930					
1931	3.23	2.64	to	3.44	2.81 15¢ tax
1932					
1933	3.45	2.82	to	3.66	2.99 16¢ tax
1934					
1935	3.67	3.00	to	3.88	3.18 17¢ tax
1936					
1937	3.89	3.19	to	4.11	3.36 18¢ tax
1938					
1939	4.12	3.37	to	4.33	3.54 19¢ tax
1940					
1941	4.34	3.55	to	4.55	3.72 20¢ tax
1942					
1943	4.56	3.73	to	4.77	3.90 21¢ tax
1944					
1945	4.78	3.91	to	5.00	4.09 22¢ tax
1946					
1947		4.10	to		4.27 23¢ tax
1948					
1949		4.28	to		4.45 24¢ tax
1950					

1951	4.46	to	4.63	25¢ tax
1952				
1953	4.64	to	4.81	26¢ tax
1954				
1955	4.82	to	5.00	27¢ tax
1956				

On transactions ~~over five dollars~~ *greater than \$5*, the tax shall be computed at ~~four~~ *five* and one-half percent, one half cent or more being treated as one cent. The foregoing bracket system shall not relieve the dealer from the duty and liability to remit an amount equal to ~~four~~ *five* and one-half percent of his gross taxable sales as provided in this chapter. If the dealer, however, 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.

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

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

1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly *for any month beginning prior to July 1, 2004*, shall be paid; *in the manner hereinafter provided in this section*, to the Transportation Trust Fund as defined in § 33.1-23.03:1. *Such revenues generated for the months of July, August, September, October, and November of 2004 shall be deposited into the general fund of the state treasury. Beginning with the month of December 2004, the sales and use tax revenue generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly shall be deposited into the Personal Property Tax Relief Fund as established under § 58.1-3533 and shall be distributed to local governments for replacement of local personal property tax revenues as provided in § 58.1-3526.*

Of the funds paid to the Transportation Trust Fund, an aggregate of ~~4.2~~ percent shall be set aside as the Commonwealth Port Fund as provided in this section; an aggregate of ~~2.4~~ percent shall be set aside as the Commonwealth Airport Fund as provided in this section; and an aggregate of ~~14.5~~ percent in fiscal year 1998-1999 and ~~14.7~~ percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit Fund as provided in this section. The Fund's share of such net revenue shall be computed as an estimate of the net revenue to be received into the state treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall be made to the Fund on the last day of each month.

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

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

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

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

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

Any new funds in excess of ~~\$12.1~~ million which are available for allocation by the Virginia Aviation Board from the Commonwealth Transportation Fund, shall be allocated as follows: sixty percent to

2012 MWAA, up to a maximum annual amount of two million dollars, and forty percent to air carrier airports
2013 as provided in subdivision A 3 a. Except for adjustments due to changes in enplaned passengers, no air
2014 carrier airport sponsor, excluding MWAA, shall receive less funds identified under subdivision A 3 a
2015 than it received in fiscal year 1994-1995.

2016 Of the remaining amount:

2017 a. Forty percent of the funds shall be allocated to air carrier airports, except airports owned or leased
2018 by MWAA, based upon the percentage of enplanements for each airport to total enplanements at all air
2019 carrier airports, except airports owned or leased by MWAA. No air carrier airport sponsor, however,
2020 shall receive less than \$50,000 nor more than \$2 million per year from this provision.

2021 b. Forty percent of the funds shall be allocated by the Aviation Board for air carrier and reliever
2022 airports on a discretionary basis, except airports owned or leased by MWAA.

2023 c. Twenty percent of the funds shall be allocated by the Aviation Board for general aviation airports
2024 on a discretionary basis.

2025 4. There is hereby created in the Department of the Treasury a special nonreverting fund which shall
2026 be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Mass
2027 Transit Fund.

2028 a. The Commonwealth Mass Transit Fund shall be established on the books of the Comptroller and
2029 any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but
2030 shall remain in the Fund. Interest earned on such funds shall be credited to the Fund. Funds may be
2031 paid to any local governing body, transportation district commission, or public service corporation for
2032 the purposes hereinafter specified.

2033 b. The amounts allocated pursuant to this section shall be used to support the public transportation
2034 administrative costs and the costs borne by the locality for the purchase of fuels, lubricants, tires and
2035 maintenance parts and supplies for public transportation at a state share of eighty percent in 2002 and
2036 ninety-five percent in 2003 and succeeding years. These amounts may be used to support up to
2037 ninety-five percent of the local or nonfederal share of capital project costs for public transportation and
2038 ridesharing equipment, facilities, and associated costs. Capital costs may include debt service payments
2039 on local or agency transit bonds. The term "borne by the locality" means the local share eligible for
2040 state assistance consisting of costs in excess of the sum of fares and other operating revenues plus
2041 federal assistance received by the locality.

2042 c. Commonwealth Mass Transit Fund revenue shall be allocated by the Commonwealth
2043 Transportation Board as follows:

2044 (1) Funds for special programs, which shall include ridesharing, experimental transit, and technical
2045 assistance, shall not exceed 1.5 percent of the Fund.

2046 (2) The Board may allocate these funds to any locality or planning district commission to finance up
2047 to eighty percent of the local share of all costs associated with the development, implementation, and
2048 continuation of ridesharing programs.

2049 (3) Funds allocated for experimental transit projects may be paid to any local governing body,
2050 transportation district commission, or public corporation or may be used directly by the Department of
2051 Rail and Public Transportation for the following purposes:

2052 (a) To finance up to ninety-five percent of the capital costs related to the development,
2053 implementation and promotion of experimental public transportation and ridesharing projects approved
2054 by the Board.

2055 (b) To finance up to ninety-five percent of the operating costs of experimental mass transportation
2056 and ridesharing projects approved by the Board for a period of time not to exceed twelve months.

2057 (c) To finance up to ninety-five percent of the cost of the development and implementation of any
2058 other project designated by the Board where the purpose of such project is to enhance the provision and
2059 use of public transportation services.

2060 d. Funds allocated for public transportation promotion and operation studies may be paid to any local
2061 governing body, planning district commission, transportation district commission, or public transit
2062 corporation, or may be used directly by the Department of Rail and Public Transportation for the
2063 following purposes and aid of public transportation services:

2064 (1) At the approval of the Board to finance a program administered by the Department of Rail and
2065 Public Transportation designed to promote the use of public transportation and ridesharing throughout
2066 Virginia.

2067 (2) To finance up to fifty percent of the local share of public transportation operations planning and
2068 technical study projects approved by the Board.

2069 e. At least 73.5 percent of the Fund shall be distributed to each transit property in the same
2070 proportion as its operating expenses bear to the total statewide operating expenses and shall be spent for
2071 the purposes specified in subdivision 4 b.

2072 f. The remaining twenty-five percent shall be distributed for capital purposes on the basis of
2073 ninety-five percent of the nonfederal share for federal projects and ninety-five percent of the total costs

for nonfederal projects. In the event that total capital funds available under this subdivision are insufficient to fund the complete list of eligible projects, the funds shall be distributed to each transit property in the same proportion that such capital expenditure bears to the statewide total of capital projects.

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

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

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

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

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

2. Beginning with the sales and use tax revenue generated for the month of December 2004, of the sales and use tax revenue generated at the tax rate in effect on January 1, 2004, the revenue generated by a one percent sales and use tax shall be deposited into the Personal Property Tax Relief Fund as established under § 58.1-3533 and shall be distributed to local governments for replacement of local personal property tax revenues as provided in § 58.1-3526.

3. Beginning July 1, 2005, of the sales and use tax revenue generated at the tax rate in effect on January 1, 2004, \$230 million shall be deposited in each fiscal year into the Personal Property Tax Relief Fund as established under § 58.1-3533 and shall be distributed to local governments for replacement of local personal property tax revenues as provided in § 58.1-3526. The \$230 million shall be deposited as follows:

Of such revenue generated for the months of July, August, September, October, and November of each fiscal year, and collected in the succeeding month, the Comptroller shall deposit \$46 million from each month's revenue into the Personal Property Tax Relief Fund established under § 58.1-3533.

4. Beginning July 1, 2004, of the revenue generated by a one percent sales and use tax, pursuant to enactments of the 2004 Session of the General Assembly increasing the state sales and use tax to four and one-half percent, in each fiscal year, unless otherwise provided in the general appropriation act, \$15 million shall be deposited by the Comptroller into the Virginia Water Quality Improvement Fund established under § 10.1-2128 and \$15 million shall be deposited into the Virginia Land Conservation Fund established under § 10.1-1020.

5. For the purposes of the Comptroller making the deposits required under subdivisions A 1 through A 3, the Tax Commissioner shall make a written certification to the Comptroller no later than the twenty-fourth of each month certifying the sales and use tax revenues generated in the preceding month. Within three calendar days of receiving such certification, the Comptroller shall make the required deposits to the Personal Property Tax Relief Fund.

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

C. The localities' share of the net revenue distributable under this section among the counties and

2135 cities shall be apportioned by the Comptroller and distributed among them by warrants of the
2136 Comptroller drawn on the Treasurer of Virginia as soon as practicable after the close of each month
2137 during which the net revenue was received into the state treasury. The distribution of the localities' share
2138 of such net revenue shall be computed with respect to the net revenue received into the state treasury
2139 during each month, and such distribution shall be made as soon as practicable after the close of each
2140 such month.

2141 D. The net revenue so distributable among the counties and cities shall be apportioned and
2142 distributed upon the basis as certified to the Comptroller by the Department of Education, of the number
2143 of children in each county and city according to the most recent statewide census of school population
2144 taken by the Department of Education pursuant to § 22.1-284, as adjusted in the manner hereinafter
2145 provided. No special school population census, other than a statewide census, shall be used as the basis
2146 of apportionment and distribution except that in any calendar year in which a statewide census is not
2147 reported, the Department of Education shall adjust such school population figures by the same percent of
2148 annual change in total population estimated for each locality by The Center for Public Service. The
2149 revenue so apportionable and distributable is hereby appropriated to the several counties and cities for
2150 maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the
2151 operation of the public schools, which shall be considered as funds raised from local resources. In any
2152 county, however, wherein is situated any incorporated town constituting a school division, the county
2153 treasurer shall pay into the town treasury for maintenance, operation, capital outlays, debt and interest
2154 payments, or other expenses incurred in the operation of the public schools, the proper proportionate
2155 amount received by him in the ratio that the school population of such town bears to the school
2156 population of the entire county. If the school population of any city or of any town constituting a school
2157 division is increased by the annexation of territory since the last preceding school population census,
2158 such increase shall, for the purposes of this section, be added to the school population of such city or
2159 town as shown by the last such census and a proper reduction made in the school population of the
2160 county or counties from which the annexed territory was acquired.

2161 E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a
2162 two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of
2163 hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment,
2164 wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the
2165 most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of
2166 Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated
2167 Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used,
2168 in part, to defray the cost of law enforcement. Not later than ~~thirty~~30 days after the close of each
2169 quarter, the Comptroller shall transfer to the Game Protection Fund the appropriate amount of
2170 collections to be dedicated to such Fund. At any time that the balance in the Capital Improvement Fund,
2171 established under § 29.1-101.1, is equal to or in excess of \$35 million, any portion of sales and use tax
2172 revenues that would have been transferred to the Game Protection Fund, established under § 29.1-101, in
2173 excess of the net operating expenses of the Board, after deduction of other amounts which accrue to the
2174 Board and are set aside for the Game Protection Fund, shall remain in the general fund until such time
2175 as the balance in the Capital Improvement Fund is less than \$35 million.

2176 F. If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall be
2177 corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.

2178 G. The term "net revenue," as used in this section, means the gross revenue received into the general
2179 fund ~~or the Transportation Trust Fund~~, *Personal Property Tax Relief Fund, Virginia Land Conservation*
2180 *Fund, or Virginia Water Quality Improvement Fund* of the state treasury under the preceding sections of
2181 this chapter, less refunds to taxpayers.

2182 § 58.1-639. Transitional provisions.

2183 A. To the extent of any increase in the state sales and use tax rate enacted by the ~~1986 Special~~ 2004
2184 Session of the Virginia General Assembly, the Tax Commissioner, upon application of the purchaser in
2185 accordance with regulations promulgated by the Commissioner, shall have the authority to refund state
2186 sales or use taxes paid on purchases of tangible personal property made pursuant to bona fide real estate
2187 construction contracts, contracts for the sale of tangible personal property, and leases, provided that the
2188 real estate construction contract, contract for the sale of tangible personal property or lease is entered
2189 into prior to the date of enactment of the increase of the state sales and use tax rate; and further
2190 provided that the date of delivery of the tangible personal property is on or before ~~March 30, 1987~~
2191 *September 30, 2004*. The term "bona fide contract," when used in this section in relation to real estate
2192 construction contracts, shall include but not be limited to those contracts which are entered into prior to
2193 the enactment of the increase in the state sales and use tax rate, provided that such contracts include
2194 plans and specifications.

2195 B. Notwithstanding the foregoing ~~March 30, 1987~~ *September 30, 2004*, delivery date requirement,
2196 with respect to bona fide real estate construction contracts which contain a specific and stated date of

completion, the date of delivery of such tangible personal property shall be on or before the completion date of the applicable project.

C. Applications for refunds pursuant to this section shall be made in accordance with the provisions of § 58.1-1823. Interest computed in accordance with § 58.1-1833 shall be added to the tax refunded pursuant to this section.

§ 58.1-801. Deeds generally; charter amendments.

A. On every deed admitted to record, except a deed exempt from taxation by law, there is hereby levied a state recordation tax. The rate of the tax shall be ~~fifteen~~ 45 cents on every \$100 or fraction thereof of the consideration of the deed or the actual value of the property conveyed, whichever is greater.

Upon deeds conveying property lying partly within the Commonwealth and partly without the Commonwealth, the tax herein imposed shall apply only to the value of so much of the property conveyed as is situated within the Commonwealth.

B. When the charter of a corporation is amended, and the only effect of such amendment is to change the corporate name of such corporation, the tax upon the recordation of a deed conveying to, or vesting in, such corporation under its changed name, the title to any or all of the real or personal property of such corporation held in its name as it existed immediately prior to such amendment, shall be fifty cents.

§ 58.1-803. Deeds of trust or mortgages; maximum tax.

A. A recordation tax on deeds of trust or mortgages is hereby imposed at a rate of ~~15¢~~ 45 cents on every \$100 or portion thereof of the amount of bonds or other obligations secured thereby. In the event of an open or revolving deed of trust, the amount of the obligation for purposes of this section shall be the maximum amount which may be outstanding at any one time. In any case in which the amount which may be secured under a deed of trust or mortgage is not ascertainable, the tax shall be based upon the fair market value of the property conveyed, determined as of the date of the deed of trust or mortgage. The fair market value of the property shall include the value of any realty required by the terms of the deed of trust or mortgage to be constructed thereon.

B. On deeds of trust or mortgages upon the works and property of a railroad lying partly within the Commonwealth and partly without the Commonwealth, the tax shall be only upon such proportion of the amount of bonds, or other obligations secured thereby, as the number of miles of the line of such company in the Commonwealth bears to the whole number of miles of the line of such company conveyed by such deed of trust or mortgage.

Upon deeds of trust or mortgages conveying other property lying partly within the Commonwealth and partly without the Commonwealth the tax herein imposed shall be only upon such proportion of the debt secured as the value of the property located within the Commonwealth, or which may be brought into the Commonwealth, bears to the entire amount of property conveyed by such deed of trust or mortgage.

C. On deeds of trust or mortgages, which provide for an initial issue of bonds, to be followed thereafter by additional bonds, unlimited in amount, if such deed of trust or mortgage provides that as and when such additional bonds are issued a supplemental indenture shall be recorded in the office in which the original deed of trust or mortgage is first recorded, which supplement shall contain a statement as to the amount of the additional bonds to be issued, then the tax shall be paid upon the initial amount of bonds when the original deed of trust is recorded and thereafter on each additional amount of bonds when the supplemental indenture relating to such additional bonds is recorded.

On deeds of trust or mortgages which are supplemental to or wrap around existing deeds of trust on which the tax imposed hereunder has already been paid, the tax shall be paid only on that portion of the face amount of the bond or obligation secured thereby which is in addition to the amount of the existing debt secured by a deed of trust or mortgage on which tax has been paid. The instrument shall certify the amount of the existing debt.

D. On deeds of trust or mortgages, the purpose of which is to refinance or modify the terms of an existing debt with the same lender, which debt is secured by a deed of trust or mortgage on which the tax imposed hereunder has been paid, the tax shall be paid only on that portion of the amount of the bond or other obligation secured thereby which is in addition to the amount of the original debt secured by a deed of trust or mortgage on which the tax has been paid. The instrument shall certify the amount of original debt.

E. The maximum tax on the recordation of any deed of trust or mortgage or on any indenture supplemental thereto shall be determined in accordance with the following schedule:

On the first 10 million dollars of value as determined pursuant to this section, ~~15¢~~ 45 cents upon every \$100 or portion thereof;

On the next 10 million dollars of value as determined pursuant to this section, ~~12¢~~ 42 cents upon every \$100 or portion thereof;

2258 On the next 10 million dollars of value as determined pursuant to this section, ~~9¢~~ 39 cents upon
2259 every \$100 or portion thereof;

2260 On the next 10 million dollars of value as determined pursuant to this section, ~~6¢~~ 36 cents upon
2261 every \$100 or portion thereof; and

2262 On all over 40 million dollars of value as determined pursuant to this section, ~~3¢~~ 33 cents upon
2263 every \$100 or portion thereof, incorporated into this section.

2264 § 58.1-807. Contracts generally; leases.

2265 A. Except as hereinafter provided, on every contract or memorandum thereof relating to real or
2266 personal property admitted to record, a recordation tax is hereby levied at the rate of ~~fifteen~~ 45 cents on
2267 every \$100 or fraction thereof of the consideration or value contracted for.

2268 B. The recordation of a deed of lease for a term of years, or assignment of the lessee's interest
2269 therein, or memorandum thereof, shall be taxed according to the provisions of this section, unless
2270 provided otherwise in § 58.1-809 or unless the annual rental, multiplied by the term for which the lease
2271 runs, or remainder thereof, equals or exceeds the actual value of the property leased. In such cases the
2272 tax for recording the deed of lease shall be based upon the actual value of the property at the date of
2273 lease, including the value of any realty required by the terms of the lease to be constructed thereon by
2274 the lessor.

2275 C. The recordation of an assignment of the lessor's interest in a lease, or memorandum thereof, shall
2276 be taxed according to the provisions of this section, unless the assignment of the lessor's interest in the
2277 lease is to provide additional security for an obligation of the lessor on which the tax has been
2278 previously paid, or the assignment of the lessor's interest is made to the person who owns the property
2279 which is subject to the lease. In such cases there shall be no tax for recording the lessor's assignment of
2280 the lease.

2281 D. Notwithstanding the other provisions of this section, the tax on the recordation of leases of oil
2282 and gas rights shall not exceed ~~twenty-five dollars~~ \$25. The tax on the recordation of leases of coal and
2283 other mineral rights shall not exceed ~~fifty dollars~~ \$50.

2284 E. Notwithstanding the other provisions of this section, the tax on the recordation of leases of
2285 outdoor advertising signs owned by a person engaged in the business of outdoor advertising licensed by
2286 the Virginia Department of Transportation pursuant to § 33.1-361 shall not exceed ~~twenty-five~~
2287 ~~dollars~~ \$25.

2288 § 58.1-808. Sales contracts for the sale of rolling stock or equipment.

2289 On every contract or agreement admitted to record relating to the sale of rolling stock or equipment,
2290 whether the title is reserved in the vendor or not, with a railroad corporation or other corporation or
2291 with a person, firm or company, the tax shall be ~~45¢~~ 45 cents on every \$100 or fraction thereof of the
2292 amount contracted for in such contract or agreement. When such contract or agreement is with a railroad
2293 corporation lying partly within the Commonwealth and partly without the Commonwealth, the tax shall
2294 be upon such proportion of the amount contracted for as the number of miles of the line of such
2295 railroad corporation in the Commonwealth bears to the whole number of miles of line of such railroad
2296 corporation.

2297 § 58.1-817. Distribution of certain revenue.

2298 A. An amount equivalent to the net additional revenues generated by the increases in the taxes under
2299 §§ 58.1-801, 58.1-803, 58.1-807, and 58.1-808 effective July 1, 2004, pursuant to enactments of the
2300 2004 Session of the General Assembly, which are generated in the Commonwealth's fiscal years
2301 beginning July 1, 2004, and July 1, 2005, shall be deposited by the Comptroller into the Revenue
2302 Stabilization Fund established under § 2.2-1828.

2303 B. The additional revenues described in subsection A shall, beginning July 1, 2006, be deposited by
2304 the Comptroller into the Transportation Trust Fund established under § 33.1-23.03:1 and distributed as
2305 provided in § 58.1-2425.1.

2306 § 58.1-901. Definitions.

2307 As used in this chapter, unless the context clearly shows otherwise, the term or phrase:

2308 "Decedent" means a deceased person.

2309 "Federal credit" means the maximum amount of the credit for state death taxes allowable by § 2011
2310 of the United States Internal Revenue Code of 1954, as amended or renumbered, or successor provision,
2311 in respect to a decedent's taxable estate. The term "maximum amount" shall be construed as to take full
2312 advantage of such credit as the laws of the United States may allow. ~~In no event, however, shall such~~
2313 ~~amount be less than the federal credit allowable by § 2011 of the Internal Revenue Code as it existed on~~
2314 ~~January 1, 1978.~~

2315 "Gross estate" means "gross estate" as defined in § 2031 of the United States Internal Revenue Code
2316 of 1954, as amended or renumbered, or the successor provision of the laws of the United States.

2317 "Nonresident" means a decedent who was domiciled outside of the Commonwealth of Virginia at his
2318 death.

2319 "Personal representative" means the personal representative of the estate of the decedent, appointed,

qualified and acting within the Commonwealth, or, if there is no personal representative appointed, qualified and acting within the Commonwealth, then any person in actual or constructive possession of the Virginia gross estate of the decedent.

"Resident" means a decedent who was domiciled in the Commonwealth of Virginia at his death.

"State" means any state, territory or possession of the United States and the District of Columbia.

"Taxable estate" means "taxable estate" as defined in § 2051 of the United States Internal Revenue Code of 1954, as amended or renumbered, or the successor provision of the laws of the United States.

"Value" means "value" as finally determined for federal estate tax purposes under the laws of the United States relating to federal estate taxes.

Any reference in this chapter to the laws of the United States relating to federal estate and gift taxes means the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal estate and gift taxes, as the same may be or become effective at any time or from time to time.

§ 58.1-2217. Taxes levied; rate.

A. There is hereby levied a tax at the rate of ~~seventeen and one-half~~ *twenty and one-half* cents per gallon on gasoline and gasohol.

B. There is hereby levied a tax at the rate of ~~sixteen~~ *twenty and one-half* cents per gallon on diesel fuel.

C. Blended fuel that contains gasoline shall be taxed at the rate levied on gasoline. Blended fuel that contains diesel fuel shall be taxed at the rate levied on diesel fuel.

D. There is hereby levied a tax at the rate of five cents per gallon on aviation gasoline. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation gasoline shall be liable for the tax at the rate of ~~seventeen and one-half~~ *twenty and one-half* cents per gallon, along with any penalties and interest that may accrue.

E. There is hereby levied a tax at the rate of five cents per gallon on aviation jet fuel purchased or acquired for use by a user of aviation fuel other than an aviation consumer. There is hereby levied a tax at the rate of five cents per gallon upon the first 100,000 gallons of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by any aviation consumer in any fiscal year. There is hereby levied a tax at the rate of one-half cent per gallon on all aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by an aviation consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation jet fuel taxable under this chapter shall be liable for the tax imposed at the rate of ~~sixteen~~ *twenty and one-half* cents per gallon, along with any penalties and interest that may accrue.

F. In accordance with § 62.1-44.34:13, a storage tank fee is imposed on each gallon of gasoline, aviation gasoline, diesel fuel (including dyed diesel fuel), blended fuel, and heating oil sold and delivered or used in the Commonwealth.

§ 58.1-2249. Tax on alternative fuel.

A. There is hereby levied a tax at the rate of ~~sixteen~~ *twenty and one-half* cents per gallon on liquid alternative fuel used to operate a highway vehicle by means of a vehicle supply tank that stores fuel only for the purpose of supplying fuel to operate the vehicle. There is hereby levied a tax at a rate equivalent to ~~sixteen~~ *twenty and one-half* cents per gallon on all other alternative fuel used to operate a highway vehicle. The Commissioner shall determine the equivalent rate applicable to such other alternative fuels.

B. In addition to any tax imposed by this article, there is hereby levied an annual license tax of ~~fifty dollars~~ *\$50* per vehicle on each highway vehicle that is fueled from a private source if the alternative fuels tax levied under this article has not been paid on fuel used in the vehicle. If such a highway vehicle is not in operation by January 1 of any year, the license tax shall be reduced by one-twelfth for each complete month which shall have elapsed since the beginning of such year.

Article 8.1.

Additional Tax.

§ 58.1-2288.1. Additional tax on fuels.

A. 1. Any licensee or person required to precollect the tax imposed on fuels under § 58.1-2217 or § 58.1-2249 shall also be required to precollect an additional tax, which is hereby imposed at the rate established in subsection B, on the number of gallons of gasoline, gasohol, diesel fuel, blended fuel, or alternative fuel for which the licensee or person is precollecting the tax under such section or sections.

2. An additional tax, at the rate established in subsection B, shall be imposed on any licensee or person subject to the tax under § 58.1-2224. Such additional tax shall be imposed on the number of gallons of fuel for which the licensee or person is subject to the tax under such section.

B. The additional taxes imposed under subsection A shall be imposed at a cents per gallon rate determined by the Department. The taxes shall be based upon 5.5 percent of the statewide average retail

2381 price of a gallon of self-serve unleaded regular gasoline, excluding federal and state excise taxes, as
2382 determined and certified by the Department rounded up to the nearest one-tenth of one cent. Beginning
2383 July 1, 2004, such rate shall be determined every six months by the Department unless the Department
2384 certifies that the change in the statewide average retail price of a gallon of self-serve unleaded regular
2385 gasoline has been less than 10 percent during the six-month period. However, the rate shall be
2386 determined not less than annually.

2387 C. The tax imposed under this section on gallons of fuel for which the licensee or person is
2388 precollecting the tax under § 58.1-2217 or § 58.1-2249 is imposed on the ultimate consumer but shall be
2389 precollected as prescribed herein, and the levies and assessments imposed on the licensee or person for
2390 such tax are imposed on them as agents of the Commonwealth for the precollection of the tax.

2391 D. The taxes imposed under subsection A shall be due and paid by such licensee or person at the
2392 same time that the tax under §§ 58.1-2217, 58.1-2224, or § 58.1-2249, as applicable, is due. All
2393 provisions of this chapter including but not limited to return filing and reporting requirements, payment
2394 requirements and due dates for payment of tax, requirements to precollect tax, late payment penalties
2395 and interest, jeopardy assessments, civil penalties, discounts, deductions, and exemptions from tax shall
2396 apply *mutatis mutandis* to the taxes imposed under this section.

2397 § 58.1-2289. Disposition of tax revenue generally.

2398 A. Unless Except as otherwise provided in subsection F and elsewhere in this section, all taxes and
2399 fees, including civil penalties, collected by the Commissioner pursuant to this chapter, less a reasonable
2400 amount to be allocated for refunds, shall be promptly paid into the state treasury and shall constitute
2401 special funds within the Commonwealth Transportation Fund. Any balances remaining in these funds at
2402 the end of the year shall be available for use in subsequent years for the purposes set forth in this
2403 chapter, and any interest income on such funds shall accrue to these funds. Except as provided in
2404 subsection F and § 33.1-23.03:1, no portion of the revenue derived from taxes collected pursuant to
2405 §§ 58.1-2217, 58.1-2249 or § 58.1-2701, and remaining after authorized refunds for nonhighway use of
2406 fuel, shall be used for any purpose other than the construction, reconstruction or maintenance of the
2407 roads and projects comprising the State Highway System, the Interstate System and the secondary
2408 system of state highways and expenditures directly and necessarily required for such purposes, including
2409 the retirement of revenue bonds.

2410 Revenues collected under this chapter may be also used for (i) contributions toward the construction,
2411 reconstruction or maintenance of streets in cities and towns of such sums as may be provided by law
2412 and (ii) expenditures for the operation and maintenance of the Department of Transportation, the
2413 Department of Rail and Public Transportation, the Department of Aviation, the Virginia Port Authority,
2414 and the Department of Motor Vehicles as may be provided by law.

2415 The Governor is hereby authorized to transfer out of such fund an amount necessary for the
2416 inspection of gasoline and motor grease measuring and distributing equipment, and for the inspection
2417 and analysis of gasoline for purity.

2418 B. ~~The~~ Except as provided in subsection F, the tax collected on each gallon of aviation fuel sold and
2419 delivered or used in this Commonwealth, less refunds, shall be paid into a special fund of the state
2420 treasury. Proceeds of this special fund within the Commonwealth Transportation Fund shall be disbursed
2421 upon order of the Department of Aviation, on warrants of the Comptroller, to defray the cost of the
2422 administration of the laws of this Commonwealth relating to aviation, for the construction, maintenance
2423 and improvement of airports and landing fields to which the public now has or which it is proposed
2424 shall have access, and for the promotion of aviation in the interest of operators and the public generally.

2425 C. One-half cent of the tax collected on each gallon of fuel on which the refund has been paid at the
2426 rate of seventeen cents per gallon ; or in the case of diesel fuel, fifteen and one-half cents per gallon;
2427 for gasoline, gasohol, diesel, blended fuel, and alternative fuel, for fuel consumed in tractors and
2428 unlicensed equipment used for agricultural purposes shall be paid into a special fund of the state
2429 treasury, known as the Virginia Agricultural Foundation Fund, to be disbursed to make certain refunds
2430 and defray the costs of the research and educational phases of the agricultural program, including
2431 supplemental salary payments to certain employees at Virginia Polytechnic Institute and State University,
2432 the Department of Agriculture and Consumer Services and the Virginia Truck and Ornamentals Research
2433 Station, including reasonable expenses of the Virginia Agricultural Council.

2434 D. One and one-half cents of the tax collected on each gallon of fuel used to propel a commercial
2435 watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of
2436 the state treasury to be made available to the Board of Game and Inland Fisheries until expended for the
2437 purposes provided generally in subsection C of § 29.1-701, including acquisition, construction,
2438 improvement and maintenance of public boating access areas on the public waters of this
2439 Commonwealth and for other activities and purposes of direct benefit and interest to the boating public
2440 and for no other purpose. However, one and one-half cents per gallon on fuel used by commercial
2441 fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be
2442 used for the construction, repair, improvement and maintenance of the public docks of this

Commonwealth used by said commercial watercraft. Any expenditures for the acquisition, construction, improvement and maintenance of the public docks shall be made according to a plan developed by the Virginia Marine Resources Commission.

From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for the propelling of watercraft, *after deduction for the additional revenues generated from the increase in the rate of tax on gasoline and the additional tax on gasoline imposed by this chapter effective July 1, 2004, and after deduction for lawful refunds*, there shall be paid into the state treasury for use by the Marine Resources Commission, the Virginia Soil and Water Conservation Board, the State Water Control Board, and the Commonwealth Transportation Board to (i) improve the public docks as specified in this section, (ii) improve commercial and sports fisheries in Virginia's tidal waters, (iii) make environmental improvements including, without limitation, fisheries management and habitat enhancement in the Chesapeake and its tributaries, and (iv) further the purposes set forth in § 33.1-223, a sum as established by the General Assembly.

E. Notwithstanding other provisions of this section *except subsection F*, there shall be transferred from moneys collected pursuant to this section to a special fund within the Commonwealth Transportation Fund in the state treasury, to be used to meet the necessary expenses of the Department of Motor Vehicles, an amount equal to one percent of a sum to be calculated as follows: the tax revenues collected pursuant to this chapter, at the tax rates in effect on December 31, 1986, less refunds authorized by this chapter and less taxes collected for aviation fuels.

F. An amount equivalent to the net additional revenues generated by increases in the rate of taxes under this chapter and the additional taxes imposed pursuant to § 58.1-2288.1 effective July 1, 2004, pursuant to enactments of the 2004 Session of the General Assembly, shall be deposited by the Comptroller into the Transportation Trust Fund established under § 33.1-23.03:1 and distributed as provided in § 58.1-2425.1.

§ 58.1-2401. Definitions.

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

"Commissioner" shall mean the Commissioner of the Department of Motor Vehicles of the Commonwealth.

"Daily rental vehicle" shall mean a motor vehicle, except a motorcycle or a manufactured home as defined in § 46.2-100, used for rental as defined in this section and for the transportation of persons or property, whether on its own structure or by drawing another vehicle or vehicles.

"Department" shall mean the Department of Motor Vehicles of this Commonwealth, acting through its duly authorized officers and agents.

"Gross proceeds" shall mean the charges made or voluntary contributions received for the rental of a motor vehicle where the rental or lease agreement is for a period of less than twelve months.

"Mobile office" shall mean an industrialized building unit not subject to the federal regulation, which may be constructed on a chassis for the purpose of towing to the point of use and designed to be used with or without a permanent foundation, for commercial use and not for residential use; or two or more such units separately towable, but designed to be joined together at the point of use to form a single commercial structure, and which may be designed for removal to, and installation or erection on other sites.

"Motor vehicle" shall mean every vehicle, except for mobile office as herein defined, which is self-propelled or designed for self-propulsion and every vehicle drawn by or designed to be drawn by a motor vehicle, including manufactured homes as defined in § 46.2-100 and every device in, upon and by which any person or property is, or can be, transported or drawn upon a highway, but excepting devices moved by human or animal power, devices used exclusively upon stationary rails or tracks and vehicles, other than manufactured homes, used in this Commonwealth but not required to be licensed by the Commonwealth.

"Rental" shall mean the transfer of the possession or use of a motor vehicle, whether or not the motor vehicle is required to be licensed by the Commonwealth, by a person for a consideration, without the transfer of the ownership of such motor vehicle, for a period of less than ~~twelve~~ 12 months. Any fee arrangement between the holder of a permit issued by the State Corporation Commission or the Department for taxicab services and the driver or drivers of such taxicabs shall not be deemed a rental under this section.

"Rental in the Commonwealth" shall mean any rental where a person received delivery of a motor vehicle within the Commonwealth. The term "Commonwealth" shall include all land or interest in land within the Commonwealth owned by or conveyed to the United States of America.

"Rentor" shall mean a person engaged in the rental of motor vehicles for consideration as defined in this section.

"Sale" shall mean any transfer of ownership or possession, by exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of a motor vehicle. The term shall also include a

2504 transaction whereby possession is transferred but title is retained by the seller as security. The term shall
2505 not include a transfer of ownership or possession made to secure payment of an obligation, nor shall it
2506 include a refund for, or replacement of, a motor vehicle of equivalent or lesser value pursuant to the
2507 Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.). Where the replacement motor
2508 vehicle is of greater value than the motor vehicle replaced, only the difference in value shall constitute a
2509 sale.

2510 "Sale price" shall mean the total price paid for a motor vehicle and all attachments thereon and
2511 accessories thereto, as determined by the Commissioner, *less the lesser of (i) the amount of any*
2512 *allowance given by the seller for a motor vehicle taken in trade as a partial payment for the purchased*
2513 *motor vehicle or (ii) the wholesale value for such motor vehicle taken in trade as specified in a*
2514 *recognized pricing guide, and exclusive of any federal manufacturers' excise tax, without any allowance*
2515 *or deduction for trade-ins or unpaid liens or encumbrances. However, "sale price" shall not include the*
2516 *cost of controls, lifts, automatic transmission, power steering, power brakes or any other equipment*
2517 *installed in or added to a motor vehicle which is required by law or regulation as a condition for*
2518 *operation of a motor vehicle by a handicapped person.*

2519 § 58.1-2402. Levy.

2520 A. There is hereby levied, in addition to all other taxes and fees of every kind now imposed by law,
2521 a tax upon the sale or use of motor vehicles in Virginia, other than (i) vehicles with a gross vehicle
2522 weight rating or gross combination weight rating of 26,001 pounds or more, or (ii) a sale to or use by a
2523 person for rental as an established business or part of an established business or incidental or germane to
2524 such business.

2525 There shall also be levied a tax upon the rental of a motor vehicle in Virginia, without regard to
2526 whether such vehicle is required to be licensed by the Commonwealth. However, such tax shall not be
2527 levied upon a rental to a person for re-rental as an established business or part of an established
2528 business, or incidental or germane to such business.

2529 The amount of the tax to be collected shall be determined by the Commissioner by the application of
2530 the following rates against the gross sales price or gross proceeds:

2531 1. ~~Three~~ *Five and one-half* percent of the sale price of each motor vehicle sold in Virginia. If such
2532 motor vehicle is a manufactured home as defined in § 36-85.3, the tax shall be three percent of the sale
2533 price of each such manufactured home sold in this Commonwealth; if such vehicle is a mobile office as
2534 defined in § 58.1-2401, the tax shall be two percent of the sale price of each mobile office sold in this
2535 Commonwealth.

2536 2. ~~Three~~ *Five and one-half* percent of the sale price of each motor vehicle, or three percent of the
2537 sale price of each manufactured home as defined in § 36-85.3, or two percent of the sale price of each
2538 mobile office as defined in § 58.1-2401, not sold in Virginia but used or stored for use in this
2539 Commonwealth. When any such motor vehicle or manufactured home is first used or stored for use in
2540 Virginia six months or more after its acquisition, the tax shall be based on its current market value.

2541 3. Four percent of the gross proceeds from the rental in Virginia of any motor vehicle, except those
2542 with a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more.

2543 4. In addition to the tax levied pursuant to subdivision A 3, a tax of four percent of the gross
2544 proceeds shall be levied on the rental in Virginia of any daily rental vehicle, whether or not such vehicle
2545 is required to be licensed in the Commonwealth.

2546 5. The minimum tax levied on the sale of any motor vehicle in the Commonwealth shall be
2547 ~~thirty-five dollars~~ \$35, except as provided by those exemptions defined in § 58.1-2403.

2548 B. A transaction taxed under subdivision A 1 shall not also be taxed under subdivision A 2, nor shall
2549 the same transaction be taxed more than once under either subdivision. A motor vehicle subject to the
2550 tax imposed under subdivision A 3 shall be subject to the tax under either subdivision A 1 or A 2 when
2551 it ceases to be used for rental as an established business or part of an established business, or incidental
2552 or germane to such business.

2553 C. Any motor vehicle, trailer or semitrailer exempt from this tax under subdivision 1 or 2 of
2554 § 58.1-2403 shall be subject to the tax, based on the current market value when such vehicle is no
2555 longer owned, rented or used by the United States government or any governmental agency, or the
2556 Commonwealth of Virginia or any political subdivision thereof. Further, any motor vehicle, trailer or
2557 semitrailer exempt from the tax imposed by this chapter under subdivision 11 of § 58.1-2403 or
2558 §§ 46.2-663 through 46.2-674 shall be subject to the tax, based on the current market value, when such
2559 vehicle is subsequently licensed to operate on the highways of this Commonwealth.

2560 D. Any person who with intent to evade or to aid another person to evade the tax provided for
2561 herein, falsely states the selling price of a vehicle on a bill of sale, assignment of title, application for
2562 title, or any other document or paper submitted to the Commissioner pursuant to any provisions of this
2563 title or Title 46.2, shall be guilty of a Class 3 misdemeanor.

2564 E. Effective January 1, 1997, any amount designated as a "processing fee" and any amount charged
2565 by a dealer for processing a transaction, which is required to be included on a buyer's order pursuant to

subdivision 10 of § 46.2-1530, shall be subject to the tax.

§ 58.1-2405. Basis of tax.

A. In the case of the sale or use of a motor vehicle upon which the pricing information is required by federal law to be posted, the Commissioner may ~~collect the tax upon the basis of~~ *calculate the sale price as defined in § 58.1-2401, by using the total sale price shown on such document and may collect the tax on the same*; however, if the Commissioner is satisfied that the purchaser has paid less than such price, by such evidence as the Commissioner may require, he may ~~assess and collect the tax upon the basis of the sale price~~ *calculate the sale price by using the total price so found by him. In no case shall such lesser price include credits for trade-in or any other transaction of such nature.*

B. In the case of the sale or use of a motor vehicle ~~which that~~ is not a new motor vehicle, the Commissioner may ~~employ~~ *calculate the sale price, as defined in § 58.1-2401, by using the sale price determined by employing* such publications, sources of information, and other data as are customarily employed in ascertaining the maximum sale price of such used motor vehicles but in no case shall any credit or exemption be allowed for ~~trade-in, prior rental or any other transaction of like nature except as provided in subdivision 26 of § 58.1-2403.~~

C. In the case of the sale or use of a motor vehicle, ~~which that~~ is not a new motor vehicle, between individuals who are not required to be licensed as dealers or salespersons under the provisions of §§ 46.2-1508 and 46.2-1908, the Commissioner may ~~collect the tax upon the basis of~~ *calculate the sale price as defined in § 58.1-2401, by using the total sale price as established by such evidence as the Commissioner may require and the Commissioner may collect the tax on the same*; provided that if such motor vehicle is no more than five years old and is listed in a recognized pricing guide, the total sale price, ~~before credit for any trade-in,~~ shall not be less than the value listed in such pricing guide for such vehicle, less an allowance of \$1,500, unless the purchaser shall execute an affidavit under penalty of perjury stating a lesser total sale price, ~~before credit for any trade-in,~~ and declaring such sale or use to be a bona fide transaction for full value. In using a recognized pricing guide, the Commissioner shall use the trade-in value specified in such guide, with no additions for optional equipment or subtractions for mileage, so long as uniformly applied for all types of motor vehicles. In no case shall any credit or exemption be allowed for ~~trade-in, prior rental or any other transaction of like nature except as provided in subdivision 26 of § 58.1-2403.~~

§ 58.1-2425. Disposition of revenues.

~~A.~~ All funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury. Except as otherwise provided in this section, these funds shall constitute special funds within the Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds shall accrue to these funds. The revenue so derived, after refunds have been deducted, is hereby allocated for the construction, reconstruction and maintenance of highways and the regulation of traffic thereon and for no other purpose. However, (i) all funds collected pursuant to the provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the city, town, or county wherein such manufactured home is to be situated as a dwelling; (ii) all funds collected from the additional tax imposed by subdivision A 4 of § 58.1-2402 on the rental of daily rental vehicles shall be distributed quarterly to the city, town, or county wherein such vehicle was delivered to the rentee; (iii) effective January 1, 1987, an amount equivalent to the net additional revenues generated by enactments of the 1986 Special Session of the Virginia General Assembly which amended §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402 and this section shall be ~~distributed to and paid into the Transportation Trust Fund, a special fund within the Commonwealth Transportation Fund, and are hereby appropriated to the Commonwealth Transportation Board for transportation needs deposited into the Transportation Trust Fund established under § 33.1-23.03:1 and distributed as provided in § 58.1-2425.1;~~ (iv) *an amount equivalent to the net additional revenues that increased the rate of tax under this chapter effective July 1, 2004, pursuant to enactments of the 2004 Session of the General Assembly, shall be deposited into the Transportation Trust Fund established under § 33.1-23.03:1 and distributed as provided in § 58.1-2425.1;* and ~~(ivv)~~ except as otherwise provided in clause (iii) of this sentence, all moneys collected from the tax on the gross proceeds from the rental in Virginia of any motor vehicle pursuant to subdivision A 3 of § 58.1-2402 at the tax rate in effect on December 31, 1986, shall be paid by the Commissioner into the state treasury and shall be set aside in a special fund within the Commonwealth Transportation Fund to be used to meet the expenses of the Department of Motor Vehicles.

~~B.~~ As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation Trust Fund pursuant to clause (iii) of subsection A of this section, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit

2627 ~~Fund.~~

2628 § 58.1-2425.1. *Distribution of revenues enacted by the 1986 Special Session and the 2004 Regular*
2629 *Session of the General Assembly.*

2630 A. *Of the funds paid to the Transportation Trust Fund pursuant to clauses (iii) and (iv) of*
2631 *§ 58.1-2425, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund; an*
2632 *aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund; and an aggregate of*
2633 *14.5 percent in fiscal year 1998-1999 and 14.7 percent in fiscal year 1999-2000 and thereafter shall be*
2634 *set aside as the Commonwealth Mass Transit Fund.*

2635 B. *There is hereby created in the Department of the Treasury a special nonreverting fund that shall*
2636 *be a part of the Transportation Trust Fund and that shall be known as the Commonwealth Port Fund.*

2637 1. *The Commonwealth Port Fund shall be established on the books of the Comptroller and the funds*
2638 *remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain*
2639 *in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it. Funds may*
2640 *be paid to any authority, locality or commission for the purposes hereinafter specified.*

2641 2. *The amounts allocated to the Commonwealth Port Fund pursuant to this section shall be allocated*
2642 *by the Commonwealth Transportation Board to the Board of Commissioners of the Virginia Port*
2643 *Authority to be used to support port capital needs and the preservation of existing capital needs of all*
2644 *ocean, river, or tributary ports within the Commonwealth.*

2645 3. *Commonwealth Port Fund revenue shall be allocated by the Board of Commissioners to the*
2646 *Virginia Port Authority in order to foster and stimulate the flow of maritime commerce through the*
2647 *ports of Virginia, including but not limited to the ports of Richmond, Hopewell and Alexandria.*

2648 C. *There is hereby created in the Department of the Treasury a special nonreverting fund that shall*
2649 *be part of the Transportation Trust Fund and that shall be known as the Commonwealth Airport Fund.*
2650 *The Commonwealth Airport Fund shall be established on the books of the Comptroller and any funds*
2651 *remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain*
2652 *in the Fund. Interest earned on the funds shall be credited to the Fund. The funds so allocated pursuant*
2653 *to this section shall be allocated by the Commonwealth Transportation Board to the Virginia Aviation*
2654 *Board. The funds shall be allocated by the Virginia Aviation Board to any Virginia airport that is*
2655 *owned by the Commonwealth, a governmental subdivision thereof, or a private entity to which the*
2656 *public has access for the purposes enumerated in § 5.1-2.16, or is owned or leased by the Metropolitan*
2657 *Washington Airports Authority (MWAA), as follows:*

2658 *Any new funds in excess of \$12.1 million that are available for allocation by the Virginia Aviation*
2659 *Board from the Commonwealth Transportation Fund shall be allocated as follows: 60 percent to*
2660 *MWAA, up to a maximum annual amount of \$2 million, and 40 percent to air carrier airports as*
2661 *provided in subdivision C 1. Except for adjustments due to changes in enplaned passengers, no air*
2662 *carrier airport sponsor, excluding MWAA, shall receive less funds identified under subdivision C 1 than*
2663 *it received in fiscal year 1994-1995.*

2664 *Of the remaining amount:*

2665 1. *Forty percent of the funds shall be allocated to air carrier airports, except airports owned or*
2666 *leased by MWAA, based upon the percentage of enplanements for each airport to total enplanements at*
2667 *all air carrier airports, except airports owned or leased by MWAA. No air carrier airport sponsor,*
2668 *however, shall receive less than \$50,000 nor more than \$2 million per year from this provision.*

2669 2. *Forty percent of the funds shall be allocated by the Aviation Board for air carrier and reliever*
2670 *airports on a discretionary basis, except airports owned or leased by MWAA.*

2671 3. *Twenty percent of the funds shall be allocated by the Aviation Board for general aviation airports*
2672 *on a discretionary basis.*

2673 D. *There is hereby created in the Department of the Treasury a special nonreverting fund that shall*
2674 *be a part of the Transportation Trust Fund and that shall be known as the Commonwealth Mass Transit*
2675 *Fund.*

2676 1. *The Commonwealth Mass Transit Fund shall be established on the books of the Comptroller and*
2677 *any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but*
2678 *shall remain in the Fund. Interest earned on such funds shall be credited to the Fund. Funds may be*
2679 *paid to any local governing body, transportation district commission, or public service corporation for*
2680 *the purposes hereinafter specified.*

2681 2. *The amounts allocated to the Commonwealth Mass Transit Fund pursuant to this section shall be*
2682 *used to support the public transportation administrative costs and the costs borne by the locality for the*
2683 *purchase of fuels, lubricants, tires and maintenance parts and supplies for public transportation at a*
2684 *state share of 80 percent in 2002 and 95 percent in 2003 and succeeding years. These amounts may be*
2685 *used to support up to 95 percent of the local or nonfederal share of capital project costs for public*
2686 *transportation and ridesharing equipment, facilities, and associated costs. Capital costs may include*
2687 *debt service payments on local or agency transit bonds. The term "borne by the locality" means the*
2688 *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.

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

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

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

c. 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:

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

(2) To finance up to 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 12 months.

(3) To finance up to 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.

4. 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:

a. 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.

b. To finance up to 50 percent of the local share of public transportation operations planning and technical study projects approved by the Board.

5. 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 D 2.

6. The remaining 25 percent shall be distributed for capital purposes on the basis of 95 percent of the nonfederal share for federal projects and 95 percent of the total costs for nonfederal projects. In the event that total capital funds available under this subdivision are insufficient to fund the complete list of eligible projects, the funds shall be distributed to each transit property in the same proportion that such capital expenditure bears to the statewide total of capital projects.

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

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

1. Local obligations for debt service for WMATA rail transit bonds apportioned to each locality using WMATA's capital formula shall be paid first by NVTC. NVTC shall use 95 percent state aid for these payments.

2. The remaining funds shall be apportioned to reflect WMATA's allocation formulas by using the related WMATA-allocated subsidies and relative shares of local transit subsidies. Capital costs shall

2750 include 20 percent of annual local bus capital expenses. Hold harmless protections and obligations for
 2751 NVTC's jurisdictions agreed to by NVTC on November 5, 1998, shall remain in effect.

2752 Appropriations from the Commonwealth Mass Transit Fund are intended to provide a stable and
 2753 reliable source of revenue as defined by Public Law 96-184.

2754 § 58.1-2510.1. Distribution of certain revenue.

2755 A. Beginning July 1, 2004, the revenues collected by the Commission from the tax imposed under
 2756 this article on direct gross premium income and subscriber fee income that are attributable to any type
 2757 of insurance as defined in § 38.2-124 and those combination policies as defined in § 38.2-1921 that
 2758 contain insurance as defined in § 38.2-124 shall be deposited into the Priority Transportation Fund
 2759 established under § 33.1-23.03:8.

2760 B. The Commission shall, by November 1, 2004, prescribe such forms as is necessary for purposes of
 2761 determining the revenues described under subsection A. Such forms shall be completed by all companies
 2762 subject to the tax imposed under this article for forms and returns required to be filed by March 1,
 2763 2005.

2764 § 58.1-2701. Amount of tax.

2765 A. Except as provided in subsection B, every motor carrier shall pay a road tax equivalent to
 2766 ~~nineteen~~ *thirteen* and one-half cents per gallon *greater than the sum of the taxes imposed on each gallon*
 2767 *of diesel fuel under subsection B of § 58.1-2217 and § 58.1-2288.1* calculated on the amount of motor
 2768 fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of ~~sixty~~ *sixty* 60 degrees
 2769 Fahrenheit and a pressure of 14.7 pounds per square inch absolute), used in its operations within the
 2770 Commonwealth.

2771 The tax imposed by this chapter shall be in addition to all other taxes of whatever character imposed
 2772 on a motor carrier by any other provision of law.

2773 B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles
 2774 that are not registered under the International Registration Plan shall pay a fee of ~~\$100~~ *\$150* per year
 2775 for each qualified highway vehicle. The fee is due and payable when the vehicle registration fees are
 2776 paid pursuant to the provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2.

2777 If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due
 2778 at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration
 2779 expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the
 2780 registration fee paid is authorized by law.

2781 C. All taxes and fees paid under the provisions of this chapter shall be credited to the Highway
 2782 Maintenance and Operating Fund, a special fund within the Commonwealth Transportation Fund.

2783 § 58.1-2706. Credit for payment of motor fuel, diesel fuel or liquefied gases tax.

2784 A. Every motor carrier subject to the road tax shall be entitled to a credit on such tax equivalent to
 2785 ~~sixteen cents per gallon~~ *the sum of the taxes imposed on each gallon of diesel fuel under subsection B*
 2786 *of § 58.1-2217 and § 58.1-2288.1* on all motor fuel, diesel fuel and liquefied gases purchased by such
 2787 carrier within the Commonwealth for use in its operations either within or without the Commonwealth
 2788 and upon which the motor fuel, diesel fuel or liquefied gases tax imposed by the laws of the
 2789 Commonwealth has been paid by such carrier. Evidence of the payment of such tax in such form as
 2790 may be required by, or is satisfactory to, the Department shall be furnished by each carrier claiming the
 2791 credit herein allowed.

2792 B. When the amount of the credit to which any motor carrier is entitled for any quarter exceeds the
 2793 amount of the tax for which such carrier is liable for the same quarter, the excess may: (i) be allowed as
 2794 a credit on the tax for which such carrier would be otherwise liable for any of the eight succeeding
 2795 quarters or (ii) be refunded, upon application, duly verified and presented and supported by such
 2796 evidence as may be satisfactory to the Department.

2797 C. The Department may allow a refund upon receipt of proper application and review. It shall be at
 2798 the discretion of the Department to determine whether an audit is required.

2799 D. The refund may be allowed without a formal hearing if the amount of refund is agreed to by the
 2800 applicant. Otherwise, a formal hearing on the application shall be held by the Department after notice of
 2801 not less than ~~ten~~ *ten* 10 days to the applicant and the Attorney General.

2802 E. Whenever any refund is ordered it shall be paid out of the Highway Maintenance and
 2803 Construction Fund.

2804 F. Whenever a person operating under lease to a motor carrier to perform transport services on
 2805 behalf of the carrier purchases motor fuel, diesel fuel or liquefied gases relating to such services, such
 2806 payments or purchases may, at the discretion of the Department, be considered payment or purchases by
 2807 the carrier.

2808 § 58.1-3523. Definitions.

2809 As used in this chapter:

2810 "Commissioner" means the Commissioner of the Department of Motor Vehicles.

2811 "Commissioner of the revenue" means the same as that set forth in § 58.1-3100. For purposes of this

chapter, in a county or city which does not have an elected commissioner of the revenue, "commissioner of the revenue" means the officer who is primarily responsible for assessing motor vehicles for the purposes of tangible personal property taxation.

"Department" means the Department of Motor Vehicles.

"Effective tax rate" means the tax rate imposed by a locality on tangible personal property on the applicable class of tangible personal property multiplied by the assessment ratio.

"Leased" means leased by a natural person as lessee and used for nonbusiness purposes.

"Percentage level" means ~~the~~ a percentage of the reimbursable amount ~~to be reimbursed or paid by the Commonwealth.~~

"Privately owned" means owned by a natural person and used for nonbusiness purposes.

"Qualifying vehicle" means any passenger car, motorcycle, and pickup or panel truck, as those terms are defined in § 46.2-100, that is determined by the commissioner of the revenue of the county or city in which the vehicle has situs as provided by § 58.1-3511 to be (i) privately owned or (ii) leased pursuant to a contract requiring the lessee to pay the tangible personal property tax on such vehicle. In determining whether a vehicle is a qualifying vehicle, the commissioner of revenue may rely on the registration of such vehicle with the Department pursuant to Chapter 6 (§ 46.2-600 et seq.) of Title 46.2.

"Reimbursable amount" means the value of a qualifying vehicle, up to the first \$20,000 of value, multiplied by the effective tax rate in effect in the locality on July 1, 1997, or August 1, 1997, whichever is greater.

"Tangible personal property tax" means the tax levied pursuant to Article 1 (§ 58.1-3500 et seq.) of Chapter 35 of Title 58.1.

"Treasurer" means the same as that set forth in § 58.1-3123, when used herein with respect to a county or city. When used herein with respect to a town, "treasurer" means the officer who is primarily responsible for the billing and collection of tangible personal property taxes levied upon motor vehicles by such town, and means the treasurer of the county or counties in which such town is located if such functions are performed for the town by the county treasurer or treasurers.

"Used for nonbusiness purposes" means the preponderance of use is for other than business purposes. The preponderance of use for other than business purposes shall be deemed not to be satisfied if: (i) the motor vehicle is expensed on the taxpayer's federal income tax return pursuant to Internal Revenue Code § 179; (ii) more than ~~fifty~~50 percent of the basis for depreciation of the motor vehicle is depreciated for federal income tax purposes; or (iii) the allowable expense of total annual mileage in excess of ~~fifty~~50 percent is deductible for federal income tax purposes or reimbursed pursuant to an arrangement between an employer and employee.

"Value" means the fair market value determined by the method prescribed in § 58.1-3503 and used by the locality as of August 1, 1997, in valuing the qualifying vehicle.

§ 58.1-3524. Reimbursement of tangible personal property taxes; deduction on tangible personal property tax bills.

A. For tax year 1998, the Commonwealth shall directly reimburse taxpayers, for tangible personal property tax levies paid on any qualifying vehicle, a percentage of the reimbursable amount determined pursuant to subdivision B 1, as provided in § 58.1-3525. For tax year 1999 and tax years thereafter, the Commonwealth shall pay to treasurers a percentage of the reimbursable amount *for qualifying vehicles shall be determined pursuant to subdivisions B 2 through B 5 on any qualifying vehicle, as provided in § 58.1-3526. An amount equal to the percentage of the reimbursable amount as determined under subdivisions B 2 through B 5 shall appear as a deduction on the tangible personal property tax bill for qualifying vehicles, as provided by subsection E of § 58.1-3912.*

For tax year 2005 and tax years thereafter, the Commonwealth shall pay to treasurers an amount for qualifying vehicles as determined pursuant to § 58.1-3526.

B. ~~Subject to the conditions of subsections C and D, the~~ The amount of the reimbursement to taxpayers for tax year 1998 and the amount of the ~~payments to treasurers~~ reimbursable amount for tax years after 1998 shall be 100 percent for qualifying vehicles with a value of one thousand dollars \$1,000 or less and for each qualifying vehicle with a value of more than one thousand dollars shall be as follows: *The amount of the reimbursable amount for each qualifying vehicle with a value of more than \$1,000 shall be as follows:*

Percentage Level

1. For any tax year beginning in	12.5 percent of the reimbursable
calendar year 1998	amount for each qualifying vehicle

2. For any tax year beginning in	27.5 percent of the reimbursable
----------------------------------	----------------------------------

2873 calendar year 1999 amount for each qualifying vehicle
 2874
 2875 3. For any tax year beginning in 47.5 percent of the reimbursable
 2876
 2877 calendar year 2000 amount for each qualifying vehicle
 2878
 2879 4. For any tax ~~year~~ years beginning in 70 percent of the reimbursable
 2880
 2881 calendar year 2001, 2002, 2003, or 2004 amount for each qualifying vehicle
 2882
 2883 5. For any tax year beginning in 100 percent of the reimbursable
 2884
 2885 calendar year ~~2002~~ 2005 and tax amount for each qualifying vehicle
 2886
 2887 years thereafter
 2888
 2889

2890 C. Notwithstanding the schedule set forth in subsection B, the percentage level for each qualifying
 2891 vehicle to be paid by the Commonwealth for a tax year shall not be increased at the beginning of any
 2892 calendar year above the percentage level paid by the Commonwealth in the preceding tax year if:

2893 1. Actual general fund revenues for a fiscal year, including transfers, are less than the projected
 2894 general fund revenues, as reported in the general appropriation act in effect at that time, by one-half of
 2895 one percent or more of the amount of actual general fund revenues for such fiscal year;

2896 2. The general fund revenue forecast provided by the Governor in December pursuant to § 2.2-1503
 2897 indicates that general fund revenues, excluding transfers, for any fiscal year will be less than five
 2898 percent greater than general fund revenues for the immediately preceding fiscal year; or

2899 3. The general fund revenue forecast provided by the Governor in December pursuant to § 2.2-1503
 2900 indicates that total general fund revenues available for appropriation, including transfers, for either of the
 2901 fiscal years covered by the general appropriation act in effect at that time will be less than the general
 2902 fund appropriations for such fiscal year or years.

2903 D. If the percentage level remains the same for consecutive tax years, the percentage level to be used
 2904 in the following tax year shall remain the same unless none of the conditions described in subsection C
 2905 have occurred, in which event the amount to be paid by the Commonwealth for the immediately
 2906 following tax year shall be equal to the next highest percentage amount listed in subsection B.

2907 E. An amount equal to the percentage of the reimbursable amount as determined under subdivisions
 2908 B 2 through B 5 shall appear as a deduction on the tangible personal property tax bill for qualifying
 2909 vehicles, as provided by subsection E of § 58.1-3912.

2910 1. In the event the General Assembly changes the percentage of the reimbursable amount as
 2911 described under subsection B for the current tax year and a locality has already printed its tangible
 2912 personal property tax bills for qualifying vehicles for the year that the percentage is changed, the
 2913 following procedures shall apply:

2914 a. If the percentage of the reimbursable amount is decreased for the current tax year and the taxpayer
 2915 has paid the assessment, the locality may (i) levy an additional amount for the amount of the difference
 2916 between the percentage of the reimbursable amount for the tax year reflected on the original assessment
 2917 and the percentage of the reimbursable amount for the tax year as modified by the General Assembly in
 2918 the current year or (ii) carry forward the additional levy and include it on the subsequent tax bill,
 2919 provided such levy is not subject to penalty and interest.

2920 b. If the percentage of the reimbursable amount is increased for the current tax year and the taxpayer
 2921 has paid the assessment, the locality shall issue a refund to the taxpayer for the amount of the difference
 2922 between the percentage of the reimbursable amount for the tax year reflected on the original assessment
 2923 and the percentage of the reimbursable amount for the tax year as modified by the General Assembly in
 2924 the current tax year. Such refunds shall be issued by the treasurer no later than thirty days after receipt
 2925 of the payment from the Commonwealth pursuant to § 58.1-3526.

2926 2. In the event the General Assembly changes the percentage of the reimbursable amount as
 2927 described under subsection B before a locality has printed its tangible personal property tax bills for
 2928 qualifying vehicles, the following procedures shall apply:

2929 a. If the percentage of the reimbursable amount is decreased for the current tax year, the locality may
 2930 adjust each taxpayer's tangible personal property tax bill to reflect the changes made by the General
 2931 Assembly to the percentage of the reimbursable amount.

2932 b. If the percentage of the reimbursable amount is increased for the current tax year, the locality

shall adjust each taxpayer's tangible personal property tax bill to reflect the changes made by the General Assembly to the percentage of the reimbursable amount.

§ 58.1-3526. Payment to treasurers for tax year 2005 and thereafter.

A. For tax year 1999 2005 and tax years thereafter, the Commonwealth shall pay to treasurers the amount specified in subdivisions B 2 through B 5 of § 58.1-3524 for each qualifying vehicle for qualifying vehicles the amounts specified herein, if the conditions of this section are satisfied.

B. As provided by subsection E of § 58.1-3912, the treasurer shall include such amount an amount equal to 100 percent of the reimbursable amount as a deduction on the face of tangible personal property tax bills for qualifying vehicles and shall clearly designate such deduction as an amount to be paid by the Commonwealth. In addition to tangible personal property taxes levied on property other than qualifying vehicles, the taxpayer shall pay to the treasurer any payment due for the difference between tangible personal property taxes levied on a qualifying vehicle and such deduction. On or before the date the certified personal property tax book is required by § 58.1-3118 to be provided to the treasurer, the commissioner of the revenue shall identify each qualifying vehicle and its value to the treasurer of the locality.

C. Except as provided by subsection B of § 58.1-3528, upon full payment of the tangible personal property tax levied on a qualifying vehicle, less the amount of the deduction, as described in subsection B of this section, the treasurer shall make a request to the Commonwealth for payment of the amount equal to the amount specified in subdivisions B 2 through B 5 of § 58.1-3524 for the qualifying vehicle. Such request shall include a summary of the information appearing on the related tangible personal property tax bill. The summary information to be included in the request and the form of such request shall be prescribed by the Comptroller. Upon receipt of such information, the Comptroller shall issue the proper warrant for payment by the State Treasurer. If the Comptroller determines that a treasurer is unable to provide the summary information, he shall issue a warrant for payment to such treasurer in an amount equal to the estimate made by the Department under § 58.1-3529. Provided that the request for payment is received by the deadlines established and in the format prescribed by the Comptroller, he shall issue the warrant for payment no later than two business days after the receipt of the request from the treasurer. The amounts paid to counties, cities, and towns under this subsection are estimated to equal 100 percent of the reimbursable amount for all qualifying vehicles in tax year 2005 and tax years thereafter. No other amount shall be paid to counties, cities, and towns for replacement of local personal property tax revenues on qualifying vehicles.

For tax year 2005 and tax years thereafter, counties, cities, and towns shall be paid from the annual deposits required by subsection A of § 58.1-638 to the Personal Property Tax Relief Fund established under § 58.1-3533. Each county's, city's, or town's share of such annual deposits shall be determined pro rata based upon the payments to such county, city, or town pursuant to this chapter for tax year 2004 as compared to the payments to all counties, cities, and towns pursuant to this chapter for tax year 2004. For purposes of this subsection, annual deposits means the amount deposited by the Comptroller into the Fund during the calendar year pursuant to subsection A of § 58.1-638.

1. The amounts deposited to the Fund in each month pursuant to subdivision A 1 of § 58.1-638 shall be paid monthly to counties, cities, and towns in accordance with such pro rata basis. The Comptroller shall draw his warrant on the Treasurer of Virginia in favor of the respective county, city, or town for each monthly deposit no later than the last day of the same month.

2. The amounts deposited to the Fund in each month pursuant to subdivision A 2 of § 58.1-638 shall be paid monthly to counties, cities, and towns in accordance with such pro rata basis. The Comptroller shall draw his warrant on the Treasurer of Virginia in favor of the respective county, city, or town for each monthly deposit no later than the last day of the same month.

3. The amounts deposited to the Fund in each month pursuant to subdivision A 3 of § 58.1-638 shall be paid to counties, cities, and towns in accordance with such pro rata basis in December of each year. The Comptroller shall draw his warrant on the Treasurer of Virginia in favor of the respective county, city, or town no later than December 31.

All payments herein shall be made to the respective treasurer.

D. 1. If a taxpayer is required to make a payment for the difference between the tangible personal property tax levied on a qualifying vehicle and the deduction as described in subsection B, the amount as determined under subdivisions B 2 through B 5 of § 58.1-3524 for such qualifying vehicle shall be paid by the Commonwealth to the treasurer at such times as are consistent with the treasurer's receipt of tangible personal property tax payments on qualifying vehicles as of January 1, 1998.

2. Except as provided in subdivision D 3, if a taxpayer is not required to return to the treasurer any payment of tangible personal property tax for a qualifying vehicle, the amount as determined under subdivisions B 2 through B 5 of § 58.1-3524 for such qualifying vehicle shall be paid by the Commonwealth to the treasurer over a four-week period. There shall be one equal payment in each week. The first payment shall be made four weeks prior to the county, city, or town's due date for

3004 tangible personal property taxes on qualifying vehicles as of January 1, 1998. However, the Comptroller
3005 shall not issue a warrant for payment unless he has received the certification described in
3006 § 58.1-3916.01.

3007 3. If (i) a taxpayer is not required to return to the treasurer any payment of tangible personal
3008 property tax for a qualifying vehicle and (ii) the tangible personal property tax levy on such vehicle has
3009 been made as authorized under § 58.1-3516, the amount as determined under subdivisions B 2 through B
3000 5 of § 58.1-3524 for such qualifying vehicle shall be paid by the Commonwealth to the treasurer at such
3001 times as are consistent with the treasurer's receipt of tangible personal property tax payments on
3002 qualifying vehicles as of January 1, 1998.

3003 E. In addition to the summary information described in subsection C, the treasurer shall provide any
3004 additional information related to qualifying vehicles to the Department. Such additional information shall
3005 be prescribed in the guidelines promulgated under § 58.1-3532.

3006 § 58.1-3528. Tax Commissioner may suspend payments to a locality.

3007 A. Payments to taxpayers and treasurers under this chapter shall not include interest.

3008 B. The Commonwealth shall not make the reimbursement to a taxpayer, as provided under
3009 § 58.1-3525, unless the tangible personal property taxes for the related qualifying vehicle have been paid
3010 in full.

3011 C. The Commonwealth shall not make the reimbursement to a treasurer, as provided under
3012 subsection C of § 58.1-3526, unless the tangible personal property taxes for the related qualifying
3013 vehicle, if in excess of five dollars, have been paid in full.

3014 D. Notwithstanding the provisions of subsections B and C of this section, if a county, city, or town
3015 has entered into an agreement with a taxpayer under which such taxpayer is allowed to satisfy the
3016 tangible personal property tax liability on a qualifying vehicle in installment payments, due to financial
3017 hardship, the Commonwealth shall pay the respective amount specified in subdivisions B 2 through B 5
3018 of § 58.1-3524 for such vehicle to the treasurer if the taxpayer has paid at least fifty percent of such
3019 tangible personal property tax liability.

3020 § 58.1-3531. Full payment of tangible personal property tax on qualifying vehicles not made.

3021 Beginning in tax year 1999, notwithstanding any other provision of law, general and special,
3022 including the provisions of the charter of any county, city, or town:

3023 1. If a taxpayer fails to make the payment described in subsection B of § 58.1-3526 by its due date
3024 or fails to comply with the filing requirements for qualifying vehicles under §§ 58.1-3518 and
3025 58.1-3518.1, no interest may be imposed on any amount to be paid by the Commonwealth as
3026 determined under subdivisions B 2 through B 5 of § 58.1-3524 *the amount of the deduction described in*
3027 *subsection B of § 58.1-3526.* In calculating penalties to be imposed on the taxpayer for failure to make
3028 the payment described in subsection B of § 58.1-3526 by its due date or for failure of the taxpayer to
3029 comply with the filing requirements for qualifying vehicles under §§ 58.1-3518 and 58.1-3518.1, the
3030 treasurer may take into consideration the full amount of the tangible personal property tax levied
3031 including any amount to be paid by the Commonwealth as determined under subdivisions B 2 through B
3032 5 of § 58.1-3524 and any other relevant information.

3033 2. If a taxpayer (i) fails to comply with the filing requirements for a qualifying vehicle under
3034 §§ 58.1-3518 and 58.1-3518.1 and (ii) is not required to return to the treasurer any payment of tangible
3035 personal property tax for such vehicle, no new or replacement local motor vehicle license for such
3036 vehicle, as described in Article 11 (§ 46.2-750 et seq.) of Chapter 6 of Title 46.2 shall be issued until
3037 the taxpayer complies with such filing requirements.

3038 § 58.1-3533. Personal Property Tax Relief Fund.

3039 A. There is hereby created on the books of the Comptroller in the Department of the Treasury a
3040 special nonreverting fund which shall be known as the Personal Property Tax Relief Fund. The Fund
3041 shall consist of such funds as may be appropriated by the General Assembly from time to time *are*
3042 *deposited to it pursuant to subsection A of § 58.1-638.* These funds shall be used exclusively for the
3043 payments to taxpayers and treasurers described in this chapter. *Any interest on the Fund shall be*
3044 *credited to the general fund.*

3045 B. The Commissioner shall annually, on or before November 1, make and deliver to the Governor
3046 and the Secretary of Finance a certificate stating the sum necessary to fund the payments to taxpayers
3047 and treasurers described in this chapter.

3048 C. In the event the funds appropriated to the Fund are insufficient, or projected to be insufficient, to
3049 make payments to taxpayers or treasurers in the first year of a biennium, the Governor is authorized to
3050 transfer moneys from the second year to the first year to effect the payment.

3051 In the event the funds appropriated to the Fund are insufficient, or projected to be insufficient, to
3052 make payments to treasurers in the second year of a biennium, the Governor is hereby directed to
3053 submit to the presiding officer of each house of the General Assembly, at its next regularly scheduled
3054 session, printed copies of a budget including the sum, if any, required to restore the Fund to a level
3055 sufficient to make payments to treasurers for the purpose set forth in this chapter.

§ 58.1-3833. County food and beverage tax.

A. Any county is hereby authorized to levy a tax on food and beverages sold, for human consumption, by a restaurant, as such term is defined in subdivision 9 of § 35.1-1, not to exceed ~~eight and one-half percent, when added to the state and local general sales and use tax,~~ *four percent* of the amount charged for such food and beverages. Such tax shall not be levied on food and beverages sold through vending machines or by any person described in subdivisions 1, 2, 3, and 5 of § 35.1-25, as 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 10 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. The wrongful and fraudulent use of such collections other than remittance of the same as provided by law shall constitute embezzlement pursuant to § 18.2-111.

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.

§ 58.1-3912. Treasurers to mail certain bills to taxpayers; penalties; electronic transmission.

A. The treasurer of every city and county shall, as soon as reasonably possible in each year, but not later than ~~fourteen~~ *14* days prior to the due date of the taxes, send or cause to be sent by United States mail to each taxpayer assessed with taxes and levies for that year a bill or bills setting forth the amounts due. The treasurer may elect not to send a bill amounting to ~~twenty dollars~~ *\$20* or less as shown by an assessment book in such treasurer's office. The treasurer may employ the services of a mailing service or other vendor for fulfilling the requirements of this section. The failure of any such treasurer to comply with this section shall be a Class 4 misdemeanor. Such treasurer shall be deemed in compliance with this section as to any taxes due on real estate if, upon certification by the obligee of any note or other evidence of debt secured by a mortgage or deed of trust on such real estate that an agreement has been made with the obligor in writing within the mortgage or deed of trust instrument that such arrangements be made, he mails the bill for such taxes to the obligee thereof. Upon nonpayment of taxes by either the

3117 obligee or obligor, a past-due tax bill will be sent to the taxpayer. No governing body shall publish the
3118 name of a taxpayer in connection with a tax debt for which a bill was not sent, without first sending a
3119 notice of deficiency to his last known address at least two weeks before such publication.

3120 B. The governing body of any county, city or town may attach to or mail with all real estate and
3121 tangible personal property tax bills, prepared for taxpayers in such locality, information indicating how
3122 the tax rate charged upon such property and revenue derived therefrom is apportioned among the various
3123 services and governmental functions provided by the locality.

3124 C. Notwithstanding the provisions of subsection A of this section, in any county which has adopted
3125 the urban county executive form of government, and in any county contiguous thereto which has
3126 adopted the county executive form of government, tangible personal property tax bills shall be mailed
3127 not later than ~~thirty~~30 days prior to the due date of such taxes.

3128 D. Notwithstanding the provisions of subsection A of this section, any county and town, the
3129 governing bodies of which mutually agree, shall be allowed to send, to each taxpayer assessed with
3130 taxes, by United States mail no later than ~~fourteen~~14 days prior to the due date of the taxes, a single
3131 real property tax bill and a single tangible personal property tax bill.

3132 E. Beginning with tax year ~~1999~~ 2005, in addition to all other information currently appearing on
3133 tangible personal property tax bills, each such bill required to be sent pursuant to subsection A shall
3134 state on its face (i) whether the vehicle is a qualifying vehicle as defined in § 58.1-3523; (ii) a deduction
3135 ~~for the amount to be paid by the Commonwealth as determined by § 58.1-3524 for each qualifying~~
3136 ~~vehicle in an amount equal to 100 percent of the reimbursable amount, as such term is defined under~~
3137 ~~§ 58.1-3523;~~ (iii) the vehicle's registration number pursuant to § 46.2-604; (iv) the amount of tangible
3138 personal property tax levied on the vehicle; and (v) if the locality prorates personal property tax
3139 pursuant to § 58.1-3516, the number of months for which a bill is being sent.

3140 F. Beginning with tax year 1999 and through the end of tax year 2002, the treasurer shall include a
3141 statement, prepared by the Department, with or as part of the tangible personal property tax bills for
3142 such qualifying vehicles. The statement shall explain how the deduction for the percentage of the
3143 reimbursable amount was calculated, how the deduction shall be calculated in future years, and the
3144 taxpayer's liability for tangible personal property taxes on qualifying vehicles.

3145 G. Notwithstanding the provisions of subsection A, the treasurer, consistent with guidelines
3146 promulgated by the Department of Taxation implementing the provisions of subdivision 2 of
3147 § 58.1-1820, may convey, with the written consent of the taxpayer, any tax bill by electronic means
3148 chosen by the taxpayer, including without limitation facsimile transmission or electronic mail (e-mail), in
3149 lieu of posting such bill by first-class mail. The treasurer conveying a bill by means authorized in this
3150 subsection shall maintain a copy (in written form or electronic media) of the bill reflecting the date of
3151 transmission until such time as the bill has been satisfied or otherwise removed from the treasurer's
3152 books by operation of law. Transmission of a bill pursuant to this subsection shall have the same force
3153 and effect for all purposes arising under this subtitle as mailing to the taxpayer by first-class mail on the
3154 date of transmission.

3155 **2. That the third enactment of Chapter 12 of the Acts of Assembly of the 1986 Special Session is**
3156 **amended and reenacted as follows:**

3157 **3. That this act shall become effective on January 1, 1987, except that § 58.1-638 shall become**
3158 **effective for state sales and use taxes due for periods beginning on and after January 1, 1987,**
3159 ***subject to such amendments to such section as become law.***

3160 **3. That the provisions of this act amending § 58.1-901 of the Code of Virginia shall only apply to**
3161 **estates of persons who die after December 31, 2003.**

3162 **4. That the amendments to §§ 58.1-2401, 58.1-2402, and 58.1-2405 of the Code of Virginia shall be**
3163 **applicable only to sales of motor vehicles occurring on or after July 1, 2004.**

3164 **5. That the amendments to §§ 30-133, 58.1-3523, 58.1-3524, 58.1-3526, 58.1-3528, 58.1-3531,**
3165 **58.1-3533, and 58.1-3912 of the Code of Virginia pursuant to the provisions of this act shall be**
3166 **effective January 1, 2005.**

3167 **6. That the second enactment of Chapter 12 of the Acts of Assembly of the 1986 Special Session is**
3168 **repealed.**

3169 **7. That the tenth enactment of Chapters 1019 and 1044 of the Acts of Assembly of the 2000**
3170 **Session of the General Assembly is repealed.**

3171 **8. That §§ 58.1-3527, 58.1-3529, 58.1-3536, and 58.1-3916.01 of the Code of Virginia are repealed**
3172 **effective January 1, 2005.**