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HOUSE BILL NO. 1536

Offered January 12, 2005

Prefiled November 23, 2004

A BILL to amend and reenact §§ 3.1-1111, 30-133, 58.1-3506 of the Code of Virginia, and to repeal §§ 58.1-3506.1 as it shall become effective, 58.1-3523 as it shall become effective, 58.1-3524 as it shall become effective, and 58.1-3912 as it shall become effective, of the Code of Virginia, and to repeal the second, third, fourth, fifth, sixth, and seventh enactments of Chapter 1 of the 2004 Acts of Assembly Special Session I, relating to property taxes on vehicles qualifying for tangible personal property tax relief and payments to localities for providing tangible personal property tax relief.

Patrons—Frederick, Athey, Callahan, Cole, Lingamfelter and Sherwood

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.1-1111, 30-133, and 58.1-3506, of the Code of Virginia are amended and reenacted, as follows:

§ 3.1-1111. Tobacco Indemnification and Community Revitalization Fund; tax credits for technology industries in tobacco-dependent localities.

A. ~~(Effective until January 1, 2006)~~ Money received by the Commonwealth pursuant to the Master Settlement Agreement shall be deposited into the state treasury subject to the special nonreverting funds established by subsection B and by §§ 3.1-1109.1 and 32.1-360. However, in no case shall the amount received by the Endowment and Fund be included in general fund revenue calculations for purposes of subsection C of § 58.1-3524 and subsection B of § 58.1-3536.

A. ~~(Effective January 1, 2006)~~ Money received by the Commonwealth pursuant to the Master Settlement Agreement shall be deposited into the state treasury subject to the special nonreverting funds established by subsection B and by §§ 3.1-1109.1 and 32.1-360.

B. There is created in the state treasury a special nonreverting fund to be known as the Tobacco Indemnification and Community Revitalization Fund. The Fund shall be established on the books of the Comptroller. Subject to the sale of all or any portion of the Commission Allocation, 50 percent of the annual amount received by the Commonwealth from the Master Settlement Agreement shall be paid into the state treasury and credited to the Fund. In the event of such sale (i) the Commission Allocation shall be paid in accordance with the agreement for the period of sale and (ii) the Fund shall receive the amounts withdrawn from the Endowment in accordance with § 3.1-1109.1. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. 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 described in this chapter; however, starting with the fiscal year beginning July 1, 2000, through December 31, 2009, the Commission may deposit moneys from the Fund into the Technology Initiative in Tobacco-Dependent Localities Fund, established under § 58.1-439.15, for purposes of funding the tax credits provided in §§ 58.1-439.13 and 58.1-439.14 and the grants provided in § 58.1-439.17. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written authorization signed by the chairman of the Commission or his designee. The Fund shall also consist of other moneys received by the Commission, from any source, for the purpose of implementing the provisions of this chapter.

C. The obligations of the Commission shall not be a debt or grant or loan of credit of the Commonwealth of Virginia, and the Commonwealth shall not be liable thereon, nor shall such obligations be payable out of any funds other than those credited to the Fund.

§ 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

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59 be implemented for the agencies audited.

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

67 D. ~~(Effective until January 1, 2006)~~ As part of his normal oversight responsibilities, the Auditor of
68 Public Accounts shall incorporate into his audit procedures and processes a review process to ensure that
69 the Commonwealth's payments for qualifying vehicles, as defined in § 58.1-3523, are consistent with the
70 provisions of §§ 58.1-3525 and 58.1-3526. The Auditor of Public Accounts shall report to the Governor
71 and the Chairman of the Senate Finance Committee annually any material failure by a locality or the
72 Commonwealth to comply with the provisions of Chapter 35.1 (§ 58.1-3523 et seq.) of Title 58.1.

73 D. ~~(Effective January 1, 2006)~~ As part of his normal oversight responsibilities, the Auditor of Public
74 Accounts shall incorporate into his audit procedures and processes a review process to ensure that the
75 Commonwealth's payments to counties, cities, and towns under Chapter 35.1 (§ 58.1-3523 et seq.) of
76 Title 58.1 are consistent with the provisions of § 58.1-3524. The Auditor of Public Accounts shall report
77 to the Governor and the Chairman of the Senate Finance Committee annually any material failure by a
78 locality or the Commonwealth to comply with the provisions of Chapter 35.1 of Title 58.1.

79 E. The Auditor of Public Accounts when called upon by the Governor shall examine the accounts of
80 any institution maintained in whole or in part by the Commonwealth and, upon the direction of the
81 Comptroller, shall examine the accounts of any officer required to settle his accounts with him; and
82 upon the direction of any other state officer at the seat of government he shall examine the accounts of
83 any person required to settle his accounts with such officer.

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

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

91 § 58.1-3506. Other classifications of tangible personal property for taxation.

92 A. The items of property set forth below are each declared to be a separate class of property and
93 shall constitute a classification for local taxation separate from other classifications of tangible personal
94 property provided in this chapter:

- 95 1. Boats or watercraft weighing five tons or more;
- 96 2. Aircraft having a maximum passenger seating capacity of no more than 50 which are owned and
97 operated by scheduled air carriers operating under certificates of public convenience and necessity issued
98 by the State Corporation Commission or the Civil Aeronautics Board;
- 99 3. All other aircraft not included in subdivision A 2 and flight simulators;
- 100 4. Antique motor vehicles as defined in § 46.2-100 which may be used for general transportation
101 purposes as provided in subsection C of § 46.2-730;
- 102 5. Tangible personal property used in a research and development business;
- 103 6. Heavy construction machinery, including but not limited to land movers, bulldozers, front-end
104 loaders, graders, packers, power shovels, cranes, pile drivers, forest harvesting and silvicultural activity
105 equipment and ditch and other types of diggers;
- 106 7. Generating equipment purchased after December 31, 1974, for the purpose of changing the energy
107 source of a manufacturing plant from oil or natural gas to coal, wood, wood bark, wood residue, or any
108 other alternative energy source for use in manufacturing and any cogeneration equipment purchased to
109 achieve more efficient use of any energy source. Such generating equipment and cogeneration equipment
110 shall include, without limitation, such equipment purchased by firms engaged in the business of
111 generating electricity or steam, or both;
- 112 8. Vehicles without motive power, used or designed to be used as manufactured homes as defined in
113 § 36-85.3;
- 114 9. Computer hardware used by businesses primarily engaged in providing data processing services to
115 other nonrelated or nonaffiliated businesses;
- 116 10. Privately owned pleasure boats and watercraft, 18 feet and over, used for recreational purposes
117 only;
- 118 11. Privately owned vans with a seating capacity of not less than seven nor more than 15 persons,
119 including the driver, used exclusively pursuant to a ridesharing arrangement as defined in § 46.2-1400;
- 120 12. Motor vehicles specially equipped to provide transportation for physically handicapped

121 individuals;

122 13. Motor vehicles (i) owned by members of a volunteer rescue squad or volunteer fire department
123 or (ii) leased by members of a volunteer rescue squad or volunteer fire department if the member is
124 obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One
125 motor vehicle which is owned by each volunteer rescue squad member or volunteer fire department
126 member, or leased by each volunteer rescue squad member or volunteer fire department member if the
127 member is obligated by the terms of the lease to pay tangible personal property tax on the motor
128 vehicle, may be specially classified under this section, provided the volunteer rescue squad member or
129 volunteer fire department member regularly responds to emergency calls. The volunteer shall furnish the
130 commissioner of revenue, or other assessing officer, with a certification by the chief or head of the
131 volunteer organization, that the volunteer is a member of the volunteer rescue squad or fire department
132 who regularly responds to calls or regularly performs other duties for the rescue squad or fire
133 department, and the motor vehicle owned or leased by the volunteer rescue squad member or volunteer
134 fire department member is identified. The certification shall be submitted by January 31 of each year to
135 the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other
136 assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on
137 the part of the member, to accept a certification after the January 31 deadline. In any county which
138 prorates the assessment of tangible personal property pursuant to § 58.1-3516, a replacement vehicle may
139 be certified and classified pursuant to this subsection when the vehicle certified as of the immediately
140 prior January date is transferred during the tax year;

141 14. Motor vehicles (i) owned by auxiliary members of a volunteer rescue squad or volunteer fire
142 department or (ii) leased by auxiliary members of a volunteer rescue squad or volunteer fire department
143 if the member is obligated by the terms of the lease to pay tangible personal property tax on the motor
144 vehicle. One motor vehicle which is regularly used by each auxiliary volunteer fire department or rescue
145 squad member may be specially classified under this section. The auxiliary member shall furnish the
146 commissioner of revenue, or other assessing officer, with a certification by the chief or head of the
147 volunteer organization, that the volunteer is an auxiliary member of the volunteer rescue squad or fire
148 department who regularly performs duties for the rescue squad or fire department, and the motor vehicle
149 is identified as regularly used for such purpose; however, if a volunteer rescue squad or fire department
150 member and an auxiliary member are members of the same household, that household shall be allowed
151 no more than two special classifications under this subdivision or subdivision 13 of this section. The
152 certification shall be submitted by January 31 of each year to the commissioner of revenue or other
153 assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in
154 his discretion, and for good cause shown and without fault on the part of the member, to accept a
155 certification after the January 31 deadline;

156 15. Motor vehicles owned by a nonprofit organization and used to deliver meals to homebound
157 persons or provide transportation to senior or handicapped citizens in the community to carry out the
158 purposes of the nonprofit organization;

159 16. Privately owned camping trailers as defined in § 46.2-100, and privately owned travel trailers as
160 defined in § 46.2-1900, which are used for recreational purposes only, and privately owned trailers as
161 defined in § 46.2-100 that are designed and used for the transportation of horses except those trailers
162 described in subdivision A 11 of § 58.1-3505;

163 17. One motor vehicle owned and regularly used by a veteran who has either lost, or lost the use of,
164 one or both legs, or an arm or a hand, or who is blind or who is permanently and totally disabled as
165 certified by the Department of Veterans Services. In order to qualify, the veteran shall provide a written
166 statement to the commissioner of revenue or other assessing officer from the Department of Veterans
167 Services that the veteran has been so designated or classified by the Department of Veterans Services as
168 to meet the requirements of this section, and that his disability is service-connected. For purposes of this
169 section, a person is blind if he meets the provisions of § 46.2-739;

170 18. Motor vehicles (i) owned by persons who have been appointed to serve as auxiliary police
171 officers pursuant to Article 3 (§ 15.2-1731 et seq.) of Chapter 17 of Title 15.2 or (ii) leased by persons
172 who have been so appointed to serve as auxiliary police officers if the person is obligated by the terms
173 of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle which is
174 regularly used by each auxiliary police officer to respond to auxiliary police duties may be specially
175 classified under this section. In order to qualify for such classification, any auxiliary police officer who
176 applies for such classification shall identify the vehicle for which this classification is sought, and shall
177 furnish the commissioner of revenue or other assessing officer with a certification from the governing
178 body which has appointed such auxiliary police officer or from the official who has appointed such
179 auxiliary officers. That certification shall state that the applicant is an auxiliary police officer who
180 regularly uses a motor vehicle to respond to auxiliary police duties, and it shall state that the vehicle for
181 which the classification is sought is the vehicle which is regularly used for that purpose. The

182 certification shall be submitted by January 31 of each year to the commissioner of revenue or other
183 assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in
184 his discretion, and for good cause shown and without fault on the part of the member, to accept a
185 certification after the January 31 deadline;

186 19. Until the first to occur of June 30, 2009, or the date that a special improvements tax is no longer
187 levied under § 15.2-4607 on property within a Multicounty Transportation Improvement District created
188 pursuant to Chapter 46 (§ 15.2-4600 et seq.) of Title 15.2, tangible personal property that is used in
189 manufacturing, testing, or operating satellites within a Multicounty Transportation Improvement District,
190 provided that such business personal property is put into service within the District on or after July 1,
191 1999;

192 20. Motor vehicles which use clean special fuels as defined in § 46.2-749.3;

193 21. Wild or exotic animals kept for public exhibition in an indoor or outdoor facility which is
194 properly licensed by the federal government, the Commonwealth, or both, and which is properly zoned
195 for such use. "Wild animals" means any animals which are found in the wild, or in a wild state, within
196 the boundaries of the United States, its territories or possessions. "Exotic animals" means any animals
197 which are found in the wild, or in a wild state, and are native to a foreign country;

198 22. Furniture, office, and maintenance equipment, exclusive of motor vehicles, which are owned and
199 used by an organization whose real property is assessed in accordance with § 58.1-3284.1 and which is
200 used by that organization for the purpose of maintaining or using the open or common space within a
201 residential development;

202 23. Motor vehicles, trailers and semitrailers with a gross vehicle weight of 10,000 pounds or more
203 used to transport property for hire by a motor carrier engaged in interstate commerce;

204 24. All tangible personal property employed in a trade or business other than that described in
205 subdivisions A 1 through A 18, except for subdivision A 17, of § 58.1-3503;

206 25. Programmable computer equipment and peripherals employed in a trade or business;

207 26. Privately owned pleasure boats and watercraft, motorized and under 18 feet, used for recreational
208 purposes only;

209 27. Privately owned pleasure boats and watercraft, nonmotorized and under 18 feet, used for
210 recreational purposes only;

211 28. Privately owned motor homes as defined in § 46.2-100 that are used for recreational purposes
212 only;

213 29. Tangible personal property used in the provision of Internet services. For purposes of this
214 subdivision, "Internet service" means a service, including an Internet Web-hosting service, that enables
215 users to access content, information, electronic mail, and the Internet as part of a package of services
216 sold to customers;

217 30. Motor vehicles (i) owned by persons who serve as auxiliary, reserve or special deputy sheriffs or
218 (ii) leased by persons who serve as auxiliary, reserve or special deputy sheriffs if the person is obligated
219 by the terms of the lease to pay tangible personal property tax on the motor vehicle. For purposes of
220 this subdivision, the term "auxiliary deputy sheriff" means auxiliary, reserve or special deputy sheriff.
221 One motor vehicle that is regularly used by each auxiliary deputy sheriff to respond to auxiliary deputy
222 sheriff duties may be specially classified under this section. In order to qualify for such classification,
223 any auxiliary deputy sheriff who applies for such classification shall identify the vehicle for which this
224 classification is sought, and shall furnish the commissioner of revenue or other assessing officer with a
225 certification from the governing body that has appointed such auxiliary deputy sheriff or from the
226 official who has appointed such auxiliary deputy sheriff. That certification shall state that the applicant
227 is an auxiliary deputy sheriff who regularly uses a motor vehicle to respond to such auxiliary duties, and
228 it shall state that the vehicle for which the classification is sought is the vehicle that is regularly used
229 for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of
230 revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall
231 be authorized, in his discretion, and for good cause shown and without fault on the part of the member,
232 to accept a certification after the January 31 deadline;

233 31. Forest harvesting and silvicultural activity equipment; and

234 32. Equipment used primarily for research, development, production, or provision of biotechnology
235 for the purpose of developing or providing products or processes for specific commercial or public
236 purposes, including, but not limited to, medical, pharmaceutical, nutritional, and other health-related
237 purposes; agricultural purposes; or environmental purposes but not for human cloning purposes as
238 defined in § 32.1-162.21 or for products or purposes related to human embryo stem cells. For purposes
239 of this section, biotechnology equipment means equipment directly used in activities associated with the
240 science of living things.

241 B. The governing body of any county, city or town may levy a tax on the property enumerated in
242 subsection A at different rates from the tax levied on other tangible personal property. The rates of tax
243 and the rates of assessment shall (i) for purposes of subdivisions 1, 2, 3, 4, 6, 9 through 18, 20 through

244 22, and 24 through 32 of subsection A, not exceed that applicable to the general class of tangible
245 personal property, (ii) for purposes of subdivisions A 5, A 7, A 19, and A 23, not exceed that applicable
246 to machinery and tools, and (iii) for purposes of subdivision A 8, equal that applicable to real property.
247 C. (Effective January 1, 2006) Notwithstanding any other provision of this section, for any qualifying
248 vehicle, as such term is defined in § 58.1-3523, (i) included in any separate class of property in
249 subsection A and (ii) assessed for tangible personal property taxes by a county, city, or town receiving a
250 payment from the Commonwealth under Chapter 35.1 of this title for providing tangible personal
251 property tax relief, the county, city, or town may levy the tangible personal property tax on such
252 qualifying vehicle at a rate not to exceed the rates of tax and rates of assessment required under such
253 chapter.
254 2. That §§ 58.1-3506.1 as it shall become effective, 58.1-3523 as it shall become effective, 58.1-3524
255 as it shall become effective, and 58.1-3912 as it shall become effective, of the Code of Virginia are
256 repealed.
257 3. That the second, third, fourth, fifth, sixth and seventh enactments of Chapter 1 of the 2004 Acts
258 of Assembly Special Session I are repealed.