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**SENATE BILL NO. 798**

Offered March 3, 2008

A *BILL to amend and reenact §§ 33.1-391.10, 33.1-391.15, 58.1-603, 58.1-604, 58.1-605, 58.1-606, 58.1-811, 58.1-1724.2, 58.1-1724.3, 58.1-1724.6, 58.1-1724.7, 58.1-2403, and 58.1-2425 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 10.2 of Title 33.1 a section numbered 33.1-391.16, by adding sections numbered 46.2-755.3, 46.2-755.4, 46.2-1167.2, 58.1-802.2, and 58.1-2402.2; and to repeal §§ 46.2-755.1, 46.2-755.2, 46.2-1167.1, 58.1-625.1, 58.1-802.1, and 58.1-2402.1; relating to supplemental transportation funding for Hampton Roads.*

Patron—Wagner

Unanimous consent to introduce

Referred to Committee on Transportation

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

**1. That §§ 33.1-391.10, 33.1-391.15, 58.1-603, 58.1-604, 58.1-605, 58.1-606, 58.1-811, 58.1-1724.2, 58.1-1724.3, 58.1-1724.6, 58.1-1724.7, 58.1-2403, and 58.1-2425 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 10.2 of Title 33.1 a section numbered 33.1-391.16, by adding sections numbered 46.2-755.3, 46.2-755.4, 46.2-1167.2, 58.1-802.2, and 58.1-2402.2; and to repeal §§ 46.2-755.1, 46.2-755.2, 46.2-1167.1, 58.1-625.1, 58.1-802.1, and 58.1-2402.1 as follows:**

§ 33.1-391.10. Additional powers of the Authority.

The Authority shall have the following powers together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

1. To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

2. To adopt and use a corporate seal and to alter the same at its pleasure;

3. To procure insurance, participate in insurance plans, and provide self-insurance; however, the purchase of insurance, participation in an insurance plan, or the creation of a self-insurance plan by the Authority shall not be deemed a waiver or relinquishment of any sovereign immunity to which the Authority or its officers, directors, employees, or agents are otherwise entitled;

4. To establish bylaws and make all rules and regulations, not inconsistent with the provisions of this chapter, deemed expedient for the management of the Authority's affairs;

5. To apply for and accept money, materials, contributions, grants, or other financial assistance from the United States and agencies or instrumentalities thereof, the Commonwealth, and any political subdivision, agency, or instrumentality of the Commonwealth, and from any legitimate private source;

6. To acquire real and personal property or any interest therein by purchase, lease, gift, or otherwise for purposes consistent with this chapter; and to hold, encumber, sell, or otherwise dispose of such land or interest for purposes consistent with this chapter;

7. To acquire by purchase, lease, contract, or otherwise, highways, bridges, tunnels, railroads, rolling stock, and transit and rail facilities and other transportation-related facilities; and to construct the same by purchase, lease, contract, or otherwise;

8. In consultation with the Commonwealth Transportation Board and with each city or county in which the facility or any part thereof is or is to be located, to repair, expand, enlarge, construct, reconstruct, or renovate any or all of the transportation facilities referred to in this section, and to acquire any real or personal property needed for any such purpose;

9. To enter into agreements or leases with public or private entities for the operation and maintenance of bridges, tunnels, transit and rail facilities, and highways;

10. To make and execute contracts, deeds, mortgages, leases, and all other instruments and agreements necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter;

11. To the extent funds are made or become available to the Authority to do so, to employ employees, agents, advisors, and consultants, including without limitation, attorneys, financial advisers, engineers, and other technical advisers and, the provisions of any other law to the contrary notwithstanding, to determine their duties and compensation;

12. The authority shall comply with the provisions governing localities contained in § 15.2-2108.23; and

13. To decide and vote to impose all of the fees and taxes authorized under law for use by the

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59 Authority. Furthermore, no such fee or tax shall apply to Accomack or Northampton County until such  
60 time that the Chesapeake Bay Bridge-Tunnel facilities become subject to the control of the Authority as  
61 provided under § 33.1-391.12; and

62 14 13. To the extent not inconsistent with the other provisions of this chapter, and without limiting  
63 or restricting the powers otherwise given the Authority, to exercise all of the powers given to  
64 transportation district commissions by §§ 15.2-4518 and 15.2-4519. The Authority shall only undertake  
65 those transportation projects that are included in the federally mandated 2030 Regional Transportation  
66 Plan approved by the Metropolitan Planning Organization, or any successive plan, and that are located  
67 in, or which provide a benefit to, the counties and cities that are members of the Authority, subject to  
68 the limitations related to those projects contained in this section.

69 The Authority shall phase construction of the transportation projects that are included in the federally  
70 mandated 2030 Regional Transportation Plan, or any successive plan. Except as specifically provided  
71 herein, projects listed in the second phase shall not be undertaken until the Authority has considered and  
72 acted upon a financing plan for the maintenance, operation, and construction for the projects listed in the  
73 first phase that meet the requirements of this section.

74 First Phase Projects:

75 Route 460 Upgrade; I-64 Widening on the Peninsula; I-64 Widening on the Southside; Downtown  
76 Tunnel/Midtown Tunnel/MLK Extension; Southeastern Parkway/Dominion Blvd/Route 17; I-664  
77 Widening in Newport News; I-664 Widening on the Southside; I-664 Monitor Merrimac Memorial  
78 Bridge Tunnel Widening.

79 Second Phase Projects:

80 I-564 from I-64 to the Intermodal Connector; I-564 Connector to the Monitor Merrimac Memorial  
81 Bridge Tunnel; Craney Island Connector.

82 § 33.1-391.15. Use of revenues by the Authority.

83 Notwithstanding any other provision of this chapter, all moneys received by the Authority from the  
84 Hampton Roads Transportation Authority Revenue Fund established under § 33.1-391.16 shall be used  
85 by the Authority solely for the benefit of those counties and cities that are embraced by the Authority,  
86 and such moneys shall be used by the Authority in a manner that is consistent with the purposes stated  
87 in this chapter.

88 § 33.1-391.16. Hampton Roads Transportation Authority Revenue Fund established.

89 There is hereby created in the state treasury a special nonreverting fund to be known as the  
90 Hampton Roads Transportation Authority Revenue Fund, hereafter referred to as "the Fund." The Fund  
91 shall be established on the books of the Comptroller. All taxes and fees designated for use by the  
92 Authority under law and funds from any other source, public or private, shall be paid into the state  
93 treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and  
94 be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each  
95 fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall  
96 be used solely for the purposes as provided in this chapter. Expenditures and disbursements from the  
97 Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request  
98 signed by the chairman of the Authority, or his designee.

99 § 46.2-755.3. Additional annual license fees in certain localities.

100 In addition to taxes and license fees imposed pursuant to § 46.2-752 and to all other taxes and fees  
101 permitted by law, there is hereby imposed an additional non-refundable annual license fee in the amount  
102 of \$10 for each vehicle registered in any county or city that is embraced by the Hampton Roads  
103 Transportation Authority established pursuant to § 33.1-391.7, for such vehicles subject to state  
104 registration fees under this Title. Such additional license fees shall not, however, be charged for any  
105 vehicle registered under the International Registration Plan developed by International Registration  
106 Plan, Inc. The fee under this section shall apply to vehicles registered in the Counties of Accomack and  
107 Northampton at such time as the Chesapeake Bay Bridge-Tunnel becomes subject to the control of the  
108 Hampton Roads Transportation Authority as provided in § 33.1-391.12.

109 The revenues from such annual license fee shall be deposited into the Hampton Roads  
110 Transportation Authority Revenue Fund established under § 33.1-391.16.

111 § 46.2-755.4. Additional initial registration fees in certain localities.

112 In addition to taxes and license fees imposed pursuant to § 46.2-752 and to all other taxes and fees  
113 permitted by law, there is hereby imposed an additional non-refundable initial, one-time registration fee  
114 on any vehicle registered in any county or city that is embraced by the Hampton Roads Transportation  
115 Authority established pursuant to § 33.1-391.7, for such vehicles subject to state registration fees under  
116 this Title. The fee shall be imposed at a rate of 1% of the value of the vehicle at the time the vehicle is  
117 first registered in such county or city by the owner of the vehicle. The value of the vehicle shall be  
118 determined on the same basis as is or would be used to determine the basis for motor vehicle sales and  
119 use tax as set forth in Chapter 24 (§ 58.1-2400 et seq.) of Title 58.1. The fee imposed under this section  
120 shall be assessed at the time the vehicle is first registered in a county or city embraced by the Authority

by the owner of the vehicle, and shall be imposed only once, so long as the ownership of the vehicle upon which they are imposed remains unchanged. The fee under this section shall apply to vehicles registered in the Counties of Accomack and Northampton at such time as the Chesapeake Bay Bridge-Tunnel becomes subject to the control of the Hampton Roads Transportation Authority as provided in § 33.1-391.12.

The fee under this section shall not be imposed upon (i) vehicles registered prior to July 1, 2008 unless the ownership of the vehicle changes on or after July 1, 2008; (ii) vehicles registered under the International Registration Plan developed by International Registration Plan, Inc.; and (iii) any vehicle for which the sole basis for imposition of the fee would be a change in the ownership of the vehicle due to (a) a gift to the spouse, son, or daughter of the transferor, (b) a transfer to a spouse, heir under the will, or heir at law by intestate succession as a result of the death of the owner of the vehicle, or (c) the addition or removal of a spouse.

The revenues from the fee imposed under this section shall be deposited into the Hampton Roads Transportation Authority Revenue Fund established under § 33.1-391.16.

§ 46.2-1167.2. Additional fee in certain counties and cities.

In addition to all other charges and fees permitted by law, there is hereby imposed an additional fee at the time of inspection in the amount of \$10 for all vehicles for which an amount is permitted to be charged for inspection pursuant to § 46.2-1167 in the area embraced by the Hampton Roads Transportation Authority established pursuant to § 33.1-391.7.

The fee under this section shall apply to such vehicle inspections in the Counties of Accomack and Northampton at such time as the Chesapeake Bay Bridge-Tunnel becomes subject to the control of the Hampton Roads Transportation Authority as provided in § 33.1-391.12.

The revenues from such fee shall be deposited into the Hampton Roads Transportation Authority Revenue Fund established under § 33.1-391.16.

§ 58.1-603. Imposition of sales tax.

There is hereby levied and imposed, in addition to all other taxes and fees of every kind now imposed by law, a license or privilege tax upon every person who engages in the business of selling at retail or distributing tangible personal property in this Commonwealth, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this Commonwealth any item or article of tangible personal property as defined in this chapter, or who leases or rents such property within this Commonwealth, in the amount of three and one-half percent through midnight on July 31, 2004, and four percent beginning on and after August 1, 2004:

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.

The four percent license or privilege tax under this section shall also apply to the following charges in any county or city embraced by the Hampton Roads Transportation Authority: (i) charges for separately stated labor or services in the repair of motor vehicles and (ii) charges for the repair of a motor vehicle in cases in which the true object of the repair is a service. Such tax on the charges described in clauses (i) and (ii) shall apply to such charges in the Counties of Accomack and Northampton at such time as the Chesapeake Bay Bridge-Tunnel becomes subject to the control of the Hampton Roads Transportation Authority as provided in § 33.1-391.12. The four percent license or privilege tax on the charges described in clauses (i) and (ii) shall not apply to the towing of motor vehicles or to the provision of emergency road services on any highway of the Commonwealth, as defined in § 46.2-100. In no case shall any local sales tax apply to the charges described in clauses (i) or (ii). The revenues from such tax imposed on the charges described under clauses (i) and (ii) shall be deposited into the Hampton Roads Transportation Authority Revenue Fund established under § 33.1-391.16. Any dealer or other person required to collect any tax imposed under this chapter, or pursuant to any authority granted under this chapter, who is located in any county or city embraced by the Hampton Roads Transportation Authority established under § 33.1-391.7, shall separately state on any bill, invoice, ticket, or other billing statement the amount charged by such dealer or person for labor or services performed in the repair of motor vehicles.

§ 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

182 tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of  
183 such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount  
184 of three and one-half percent through midnight on July 31, 2004, and four percent beginning on and  
185 after August 1, 2004:

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

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

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

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

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

206 *The four percent tax under this section shall also apply to the following charges in any county or*  
207 *city embraced by the Hampton Roads Transportation Authority: (i) charges for separately stated labor*  
208 *or services in the repair of motor vehicles and (ii) charges for the repair of a motor vehicle in cases in*  
209 *which the true object of the repair is a service. Such tax on the charges described in clauses (i) and (ii)*  
210 *shall apply to such charges in the Counties of Accomack and Northampton at such time as the*  
211 *Chesapeake Bay Bridge-Tunnel becomes subject to the control of the Hampton Roads Transportation*  
212 *Authority as provided in § 33.1-391.12. The four percent tax on the charges described in clauses (i) and*  
213 *(ii) shall not apply to the towing of motor vehicles or to the provision of emergency road services on*  
214 *any highway of the Commonwealth, as defined in § 46.2-100. In no case shall any local use tax apply to*  
215 *the charges described in clauses (i) or (ii). The revenues from such tax imposed on the charges*  
216 *described under clauses (i) and (ii) shall be deposited into the Hampton Roads Transportation Authority*  
217 *Revenue Fund established under § 33.1-391.16. Any dealer or other person required to collect any tax*  
218 *imposed under this chapter, or pursuant to any authority granted under this chapter, who is located in*  
219 *any county or city embraced by the Hampton Roads Transportation Authority established under*  
220 *§ 33.1-391.7, shall separately state on any bill, invoice, ticket, or other billing statement the amount*  
221 *charged by such dealer or person for labor or services performed in the repair of motor vehicles.*

222 § 58.1-605. To what extent and under what conditions cities and counties may levy local sales taxes;  
223 collection thereof by Commonwealth and return of revenue to each city or county entitled thereto.

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

226 B. The council of any city and the governing body of any county may levy a general retail sales tax  
227 at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall  
228 be added to the rate of the state sales tax imposed by §§ 58.1-603 and 58.1-604 and shall be subject to  
229 all the provisions of this chapter and the rules and regulations published with respect thereto. No  
230 discount under § 58.1-622 shall be allowed on a local sales tax.

231 C. The council of any city and the governing body of any county desiring to impose a local sales tax  
232 under this section may do so by the adoption of an ordinance stating its purpose and referring to this  
233 section, and providing that such ordinance shall be effective on the first day of a month at least 60 days  
234 after its adoption. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so  
235 that it will be received within five days after its adoption.

236 D. Any local sales tax levied under this section shall be administered and collected by the Tax  
237 Commissioner in the same manner and subject to the same penalties as provided for the state sales tax.

238 E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid  
239 into the state treasury to the credit of a special fund which is hereby created on the Comptroller's books  
240 under the name "Collections of Local Sales Taxes." Such local sales tax moneys shall be credited to the  
241 account of each particular city or county levying a local sales tax under this section. The basis of such  
242 credit shall be the city or county in which the sales were made as shown by the records of the  
243 Department and certified by it monthly to the Comptroller, namely, the city or county of location of

each place of business of every dealer paying the tax to the Commonwealth without regard to the city or county of possible use by the purchasers. If a dealer has any place of business located in more than one political subdivision by reason of the boundary line or lines passing through such place of business, the amount of sales tax paid by such a dealer with respect to such place of business shall be treated for the purposes of this section as follows: one-half shall be assignable to each political subdivision where two are involved, one-third where three are involved, and one-fourth where four are involved.

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

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

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

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

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

K. 1. Notwithstanding the other provisions of this chapter, the Hampton Roads Transportation Authority and the Northern Virginia Transportation Authority may impose a retail sales tax at the rate of 5% on (i) charges for separately stated labor or services in the repair of motor vehicles and (ii) charges for the repair of a motor vehicle in cases in which the true object of the repair is a service provided within a city or county embraced by the respective Authority.

2. The revenue generated and collected pursuant to the tax authorized under this subsection, less the applicable portion of any refunds to taxpayers and after subtraction of the direct costs of administration

305 by the Department, shall be deposited and held in a special trust fund under the control of the State  
306 Treasurer entitled "Special Sales and Use Tax Motor Vehicle Repair Fund." The State Treasurer on a  
307 monthly basis shall distribute the amounts deposited in the special trust fund to the Hampton Roads  
308 Transportation Authority or the Northern Virginia Transportation Authority as appropriate.

309 3. No discount under § 58.1-622 shall be allowed for the tax described under this subsection. Except  
310 as otherwise provided herein, the tax under this subsection shall be administered and collected in the  
311 same manner and subject to the same penalties as provided for the local retail sales tax.

312 § 58.1-606. To what extent and under what conditions cities and counties may levy local use tax;  
313 collection thereof by Commonwealth and return of revenues to the cities and counties.

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

320 B. The council of any city and the governing body of any county desiring to impose a local use tax  
321 under this section may do so in the manner following:

322 1. If the city or county has previously imposed the local sales tax authorized by § 58.1-605, the local  
323 use tax may be imposed by the council or governing body by the adoption of a resolution by a majority  
324 of all the members thereof, by a recorded yea and nay vote, stating its purpose and referring to this  
325 section, and providing that the local use tax shall become effective on the first day of a month at least  
326 60 days after the adoption of the resolution. A certified copy of such resolution shall be forwarded to  
327 the Tax Commissioner so that it will be received within five days after its adoption. The resolution  
328 authorized by this paragraph may be adopted in the manner stated notwithstanding any other provision  
329 of law, including any charter provision.

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

333 C. Any local use tax levied under this section shall be administered and collected by the Tax  
334 Commissioner in the same manner and subject to the same penalties as provided for the state use tax.

335 D. The local use tax authorized by this section shall not apply to transactions to which the sales tax  
336 applies, the situs of which for state and local sales tax purposes is the city or county of location of each  
337 place of business of every dealer paying the tax to the Commonwealth without regard to the city or  
338 county of possible use by the purchasers. However, the local use tax authorized by this section shall  
339 apply to tangible personal property purchased without this Commonwealth for use or consumption  
340 within the city or county imposing the local use tax, or stored within the city or county for use or  
341 consumption, where the property would have been subject to the sales tax if it had been purchased  
342 within this Commonwealth. The local use tax shall also apply to leases or rentals of tangible personal  
343 property where the place of business of the lessor is without this Commonwealth and such leases or  
344 rentals are subject to the state tax. Moreover, the local use tax shall apply in all cases in which the state  
345 use tax applies.

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

353 F. Local use tax revenue shall be distributed among the cities and counties for which it is collected,  
354 respectively, as shown by the records of the Department, and the procedure shall be the same as that  
355 prescribed for distribution of local sales tax revenue under § 58.1-605. The local use tax revenue that is  
356 not accurately assignable to a particular city or county shall be distributed monthly by the appropriate  
357 state authorities among the cities and counties in this Commonwealth imposing the local use tax upon  
358 the basis of taxable retail sales in the respective cities and counties in which the local sales and use tax  
359 was in effect in the taxable month involved, as shown by the records of the Department, and computed  
360 with respect to taxable retail sales as reflected by the amounts of the local sales tax revenue distributed  
361 among such cities and counties, respectively, in the month of distribution. Notwithstanding any other  
362 provision of this section, the Tax Commissioner shall develop a uniform method to distribute local use  
363 tax. Any significant changes to the method of local use tax distribution shall be phased in over a  
364 five-year period. Distribution information shall be shared with the affected localities prior to  
365 implementation of the changes.

366 G. All local use tax revenue shall be used, applied or disbursed by the cities and counties as

provided in § 58.1-605 with respect to local sales tax revenue.

H. 1. Notwithstanding the other provisions of this chapter, the Hampton Roads Transportation Authority and the Northern Virginia Transportation Authority may impose a retail use tax at the rate of 5% on (i) charges for separately stated labor or services for the repair of motor vehicles and (ii) charges for the repair of a motor vehicle in cases in which the true object of the repair is a service provided within a city or county embraced by the respective Authority.

2. The revenue generated and collected pursuant to the tax authorized under this subsection, less the applicable portion of any refunds to taxpayers and after subtraction of the direct costs of administration by the Department, shall be deposited and held in a special trust fund under the control of the State Treasurer entitled "Special Sales and Use Tax Motor Vehicle Repair Fund." The State Treasurer on a monthly basis shall distribute the amounts deposited in the special trust fund to the Hampton Roads Transportation Authority or the Northern Virginia Transportation Authority as appropriate.

3. No discount under § 58.1-622 shall be allowed for the tax described under this subsection. Except as otherwise provided herein, the tax under this subsection shall be administered and collected in the same manner and subject to the same penalties as provided for the local retail use tax.

§ 58.1-802.2. Congestion relief fee in counties and cities embraced by the Hampton Roads Transportation Authority.

*In addition to any other tax imposed under the provisions of this chapter, in the counties and cities embraced by the Hampton Roads Transportation Authority established pursuant to § 33.1-391.7 there is hereby imposed a fee delineated as the "Regional congestion relief fee," on each deed, instrument, or writing by which lands, tenements, or other realty located in any county or city embraced by the Authority is sold and is granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser or any other person, by such purchaser's direction. The rate of the fee, when the consideration or value of the interest, whichever is greater, equals or exceeds \$100, shall be \$0.40 for each \$100 or fraction thereof, exclusive of the value of any lien or encumbrance remaining thereon at the time of the sale, whether such lien is assumed or the realty is sold subject to such lien or encumbrance.*

*The fee imposed under this section shall be paid by the grantor, or any person who signs on behalf of the grantor, of any deed, instrument, or writing subject to the fee imposed under this section.*

*The fee under this section shall apply to lands, tenements, or other realty located in the Counties of Accomack and Northampton at such time as the Chesapeake Bay Bridge-Tunnel becomes subject to the control of the Hampton Roads Transportation Authority as provided in § 33.1-391.12.*

*Fees imposed under this section shall be collected pursuant to subsection B of § 58.1-802. However, the compensation allowed to the clerk of the court under such subsection shall not be applicable with regard to the fee collected under this section. The clerk shall return all fees collected pursuant to the authority granted under this section to the state treasury as soon as practicable and all such fees shall be deposited into the Hampton Roads Transportation Authority Revenue Fund established under § 33.1-391.16.*

§ 58.1-811. Exemptions.

A. The taxes imposed by §§ 58.1-801 and 58.1-807 shall not apply to any deed conveying real estate or lease of real estate:

1. To an incorporated college or other incorporated institution of learning not conducted for profit, where such real estate is intended to be used for educational purposes and not as a source of revenue or profit;

2. To an incorporated church or religious body or to the trustee or trustees of any church or religious body, or a corporation mentioned in § 57-16.1, where such real estate is intended to be used exclusively for religious purposes, or for the residence of the minister of any such church or religious body;

3. To the United States, the Commonwealth, or to any county, city, town, district or other political subdivision of the Commonwealth;

4. To the Virginia Division of the United Daughters of the Confederacy;

5. To any nonstock corporation organized exclusively for the purpose of owning or operating a hospital or hospitals not for pecuniary profit;

6. To a corporation upon its organization by persons in control of the corporation in a transaction which qualifies for nonrecognition of gain or loss pursuant to § 351 of the Internal Revenue Code as it exists at the time of the conveyance;

7. From a corporation to its stockholders upon complete or partial liquidation of the corporation in a transaction which qualifies for income tax treatment pursuant to § 331, 332, 333 or 337 of the Internal Revenue Code as it exists at the time of liquidation;

8. To the surviving or new corporation, partnership, limited partnership, business trust, or limited liability company upon a merger or consolidation to which two or more such entities are parties, or in a reorganization within the meaning of § 368 (a) (1) (C) and (F) of the Internal Revenue Code as

428 amended;

429 9. To a subsidiary corporation from its parent corporation, or from a subsidiary corporation to a  
430 parent corporation, if the transaction qualifies for nonrecognition of gain or loss under the Internal  
431 Revenue Code as amended;

432 10. To a partnership or limited liability company, when the grantors are entitled to receive not less  
433 than 50 percent of the profits and surplus of such partnership or limited liability company; provided that  
434 the transfer to a limited liability company is not a precursor to a transfer of control of the assets of the  
435 company to avoid recordation taxes;

436 11. From a partnership or limited liability company, when the grantees are entitled to receive not less  
437 than 50 percent of the profits and surplus of such partnership or limited liability company; provided that  
438 the transfer from a limited liability company is not subsequent to a transfer of control of the assets of  
439 the company to avoid recordation taxes;

440 12. To trustees of a revocable inter vivos trust, when the grantors in the deed and the beneficiaries of  
441 the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust  
442 instrument, when no consideration has passed between the grantor and the beneficiaries; and to the  
443 original beneficiaries of a trust from the trustees holding title under a deed in trust;

444 13. When the grantor is the personal representative of a decedent's estate or trustee under a will or  
445 inter vivos trust of which the decedent was the settlor, other than a security trust defined in § 55-58.1,  
446 and the sole purpose of such transfer is to comply with a devise or bequest in the decedent's will or to  
447 transfer title to one or more beneficiaries after the death of the settlor in accordance with a dispositive  
448 provision in the trust instrument; or

449 14. When the grantor is an organization exempt from taxation under § 501 (c) (3) of the Internal  
450 Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect  
451 or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise  
452 would be unable to afford to buy a home through conventional means, located in Amherst County or the  
453 City of Lynchburg.

454 B. The taxes imposed by §§ 58.1-803 and 58.1-804 shall not apply to any deed of trust or mortgage:

455 1. Given by an incorporated college or other incorporated institution of learning not conducted for  
456 profit;

457 2. Given by the trustee or trustees of a church or religious body or given by an incorporated church  
458 or religious body, or given by a corporation mentioned in § 57-16.1;

459 3. Given by any nonstock corporation organized exclusively for the purpose of owning and/or  
460 operating a hospital or hospitals not for pecuniary profit;

461 4. Given by any local governmental entity or political subdivision of the Commonwealth to secure a  
462 debt payable to any other local governmental entity or political subdivision; or

463 5. Securing a loan made by an organization described in subdivision 14 of subsection A of this  
464 section.

465 C. The tax imposed by § 58.1-802 and the fees imposed by ~~§ 58.1-802.1~~ § 58.1-802.2 shall not apply  
466 to any:

467 1. Transaction described in subdivisions 6 through 13 of subsection A of this section;

468 2. Instrument or writing given to secure a debt;

469 3. Deed conveying real estate from an incorporated college or other incorporated institution of  
470 learning not conducted for profit;

471 4. Deed conveying real estate from the United States, the Commonwealth or any county, city, town,  
472 district or other political subdivision thereof;

473 5. Conveyance of real estate to the Commonwealth or any county, city, town, district or other  
474 political subdivision thereof, if such political unit is required by law to reimburse the parties taxable  
475 pursuant to § 58.1-802 or subject to the fee under ~~§ 58.1-802.1~~ § 58.1-802.2; or

476 6. Deed conveying real estate from the trustee or trustees of a church or religious body or from an  
477 incorporated church or religious body, or from a corporation mentioned in § 57-16.1.

478 D. No recordation tax shall be required for the recordation of any deed of gift between a grantor or  
479 grantors and a grantee or grantees when no consideration has passed between the parties. Such deed  
480 shall state therein that it is a deed of gift.

481 E. The tax imposed by § 58.1-807 shall not apply to any lease to the United States, the  
482 Commonwealth, or any county, city, town, district or other political subdivision of the Commonwealth.

483 F. The taxes and fees imposed by §§ 58.1-801, 58.1-802, ~~58.1-802.1~~ 58.1-802.2, 58.1-807, 58.1-808  
484 and 58.1-814 shall not apply to (i) any deed of gift conveying real estate or any interest therein to The  
485 Nature Conservancy or (ii) any lease of real property or any interest therein to The Nature Conservancy,  
486 where such deed of gift or lease of real estate is intended to be used exclusively for the purpose of  
487 preserving wilderness, natural or open space areas.

488 G. The words "trustee" or "trustees," as used in subdivision 2 of subsection A, subdivision 2 of  
489 subsection B, and subdivision 6 of subsection C, include the trustees mentioned in § 57-8 and the



ecclesiastical officers mentioned in § 57-16.

H. No recordation tax levied pursuant to this chapter shall be levied on the release of a contractual right, if the release is contained within a single deed that performs more than one function, and at least one of the other functions performed by the deed is subject to the recordation tax.

I. No recordation tax levied pursuant to this chapter shall be levied on a deed, lease, easement, release, or other document recorded in connection with a concession pursuant to the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) or similar federal law.

§ 58.1-1724.2. Rules and regulations; bracket system.

The Tax Commissioner shall promulgate rules and regulations for the registration of dealers and the procedures for filing returns for the payment of the tax imposed pursuant to by this article. Such regulations shall include provisions for a bracket system, designed so that the tax will appear on the fuel pump as a part of the total cost of a unit of fuel, whether the unit is a gallon or other measure. The bracket system shall state the tax per unit measure in tenths of a cent, and shall be in increments of no more than 2 1/2 cents.

§ 58.1-1724.3. Sales tax on fuel in certain localities.

A. In addition to all other taxes, fees, and other charges imposed on fuels subject to tax under Chapter 22 (§ 58.1-2200 et seq.) of this title, ~~the Hampton Roads Transportation Authority may impose there is hereby imposed~~ a sales tax of 2% of the retail price of such fuels sold at retail within any county or city embraced by the Hampton Roads Transportation Authority established under § 33.1-391.7. ~~The Commissioner shall transfer the revenues collected to the Hampton Roads Transportation Authority established under § 33.1-391.7. The tax imposed under this article shall apply to fuels sold at retail within the Counties of Accomack and Northampton at such time as the Chesapeake Bay Bridge-Tunnel becomes subject to the control of the Hampton Roads Transportation Authority as provided in § 33.1-391.12.~~

As used in this section "sold at retail" means a sale to a consumer or to any person for any purpose other than resale.

B. The tax imposed under this section shall be subject to the provisions of the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.), except that the exemption provided for motor vehicle fuels under § 58.1-609.1, and the bracket system provided in such act, shall not be applicable.

§ 58.1-1724.6. Disposition of tax revenues.

All taxes paid to the Commissioner pursuant to this article, after subtraction of the direct costs of administration by the Department, shall be ~~transferred to the Hampton Roads Transportation Authority deposited into the Hampton Roads Transportation Authority Hampton Roads Transportation Authority Revenue Fund established under § 33.1-391.16~~ on a monthly basis.

§ 58.1-1724.7. Disclosure of information; penalties.

For purposes of administering the tax levied ~~under~~ by this article, the Commissioner, upon written request, is authorized to provide to the finance officer of the Hampton Roads Transportation Authority, such information as may be necessary for the performance of his official duties. Any person to whom information is provided pursuant to this section shall be subject to the prohibitions and penalties prescribed in § 58.1-3.

§ 58.1-2402.2. Rental car transportation fee.

*In addition to all other taxes, fees, and other charges imposed under law, there is hereby imposed a fee of 2% of the gross proceeds on the daily rental of a vehicle in any county or city embraced by the Hampton Roads Transportation Authority established by § 33.1-391.7 wherein the daily rental of the vehicle occurs, regardless of whether such vehicle is required to be licensed in the Commonwealth. The fee shall not be levied upon a rental to a person for re-rental as an established business or part of an established business or incidental or germane to such business. The fee under this section shall apply to on the daily rental of a vehicle in the Counties of Accomack and Northampton at such time as the Chesapeake Bay Bridge-Tunnel becomes subject to the control of the Hampton Roads Transportation Authority as provided in § 33.1-391.12.*

*After subtraction of the direct costs of administration by the Department, all revenues collected from the fee imposed by this section shall be deposited by the Commissioner as soon as practicable into the Hampton Roads Transportation Authority Revenue Fund established under § 33.1-391.16.*

*The fee imposed under this section shall be implemented, enforced, and collected in the same manner that rental taxes under this chapter are implemented, enforced, and collected.*

§ 58.1-2403. Exemptions.

No tax shall be imposed as provided in § 58.1-2402 or ~~58.1-2402.1~~ 58.1-2402.2 if the vehicle is:

1. Sold to, rented or used by the United States government or any governmental agency thereof;
2. Sold to, rented or used by the Commonwealth of Virginia or any political subdivision thereof;
3. Registered in the name of a volunteer fire department or rescue squad not operated for profit;
4. Registered to any member of the Mattaponi, Pamunkey, or Chickahominy Indian tribes or any

- 551 other recognized Indian tribe of the Commonwealth living on the tribal reservation;
- 552 5. Transferred incidental to repossession under a recorded lien and ownership is transferred to the
- 553 lienholder;
- 554 6. A manufactured home permanently attached to real estate and included in the sale of real estate;
- 555 7. A gift to the spouse, son, or daughter of the transferor. With the exception of a gift to a spouse,
- 556 this exemption shall not apply to any unpaid obligation assumed by the transferee incidental to the
- 557 transfer;
- 558 8. Transferred from an individual or partnership to a corporation or limited liability company or from
- 559 a corporation or limited liability company to an individual or partnership if the transfer is incidental to
- 560 the formation, organization or dissolution of a corporation or limited liability company in which the
- 561 individual or partnership holds the majority interest;
- 562 9. Transferred from a wholly owned subsidiary to the parent corporation or from the parent
- 563 corporation to a wholly owned subsidiary;
- 564 10. Being registered for the first time in this Commonwealth and the applicant holds a valid,
- 565 assignable title or registration issued to him by another state or a branch of the United States Armed
- 566 Forces and (i) has owned the vehicle for longer than 12 months or (ii) has owned the vehicle for less
- 567 than 12 months and provides evidence of a sales tax paid to another state. However, when a vehicle has
- 568 been purchased by the applicant within the last 12 months and the applicant is unable to provide
- 569 evidence of a sales tax paid to another state, the applicant shall pay the Virginia sales tax based on the
- 570 fair market value of the vehicle at the time of registration in Virginia;
- 571 11. Titled in a Virginia or non-Virginia motor vehicle dealer's name for resale;
- 572 12. A motor vehicle having seats for more than seven passengers and sold to an urban or suburban
- 573 bus line the majority of whose passengers use the buses for traveling a distance of less than 40 miles,
- 574 one way, on the same day;
- 575 13. Purchased in the Commonwealth by a nonresident and a Virginia title is issued for the sole
- 576 purpose of recording a lien against the vehicle if the vehicle will be registered in a state other than
- 577 Virginia;
- 578 14. A motor vehicle designed for the transportation of 10 or more passengers, purchased by and for
- 579 the use of a church conducted not for profit;
- 580 15. Loaned or leased to a private nonprofit institution of learning, for the sole purpose of use in the
- 581 instruction of driver's education when such education is a part of such school's curriculum for full-time
- 582 students;
- 583 16. Sold to an insurance company or local government group self-insurance pool, created pursuant to
- 584 § 15.2-2703, for the sole purpose of disposition when such company has paid the registered owner of
- 585 such vehicle a total loss claim;
- 586 17. Owned and used for personal or official purposes by accredited consular or diplomatic officers of
- 587 foreign governments, their employees or agents, and members of their families, if such persons are
- 588 nationals of the state by which they are appointed and are not citizens of the United States;
- 589 18. A self-contained mobile computerized axial tomography scanner sold to, rented or used by a
- 590 nonprofit hospital or a cooperative hospital service organization as described in § 501 (e) of the United
- 591 States Internal Revenue Code;
- 592 19. A motor vehicle having seats for more than seven passengers and sold to a restricted common
- 593 carrier or common carrier of passengers;
- 594 20. Beginning July 1, 1989, a self-contained mobile unit designed exclusively for human diagnostic
- 595 or therapeutic service, sold to, rented to, or used by a nonprofit hospital, or a cooperative hospital
- 596 service organization as described in § 501 (e) of the United States Internal Revenue Code, or a nonprofit
- 597 corporation as defined in § 501 (c) (3) of the Internal Revenue Code, established for research in,
- 598 diagnosis of, or therapy for human ailments;
- 599 21. Transferred, as a gift or through a sale to an organization exempt from taxation under § 501 (c)
- 600 (3) of the Internal Revenue Code, provided the motor vehicle is not titled and tagged for use by such
- 601 organization;
- 602 22. A motor vehicle sold to an organization which is exempt from taxation under § 501 (c) (3) of the
- 603 Internal Revenue Code and which is organized for the primary purpose of distributing food, clothing,
- 604 medicines and other necessities of life to, and providing shelter for, needy persons in the United States
- 605 and throughout the world;
- 606 23. A truck, tractor truck, trailer, or semitrailer, as severally defined in § 46.2-100, except trailers and
- 607 semitrailers not designed or used to carry property and vehicles registered under § 46.2-700, with a gross
- 608 vehicle weight rating or gross combination weight rating of 26,001 pounds or more, in which case no
- 609 tax shall be imposed pursuant to subdivisions 1 and 3 of subsection A of § 58.1-2402;
- 610 24. Transferred to the trustees of a revocable inter vivos trust, when the individual titleholder of a
- 611 Virginia titled motor vehicle and the beneficiaries of the trust are the same persons, regardless of
- 612 whether other beneficiaries of the trust may also be named in the trust instrument, when no

consideration has passed between the titleholder and the beneficiaries; and transferred to the original titleholder from the trustees holding title to the motor vehicle;

25. Transferred to trustees of a revocable inter vivos trust, when the owners of the vehicle and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust instrument, or transferred by trustees of such a trust to beneficiaries of the trust following the death of the grantor, when no consideration has passed between the grantor and the beneficiaries in either case;

26. Sold by a vehicle's lessor to its lessee upon the expiration of the term of the vehicle's lease, if the lessee is a natural person and this natural person has paid the tax levied pursuant to this chapter with respect to the vehicle when he leased it from the lessor, and if the lessee presents an original copy of the lease upon request of the Department of Motor Vehicles or other evidence that the sales tax has been paid to the Commonwealth by the lessee purchasing the vehicle; or

27. Titled in the name of a deceased person and transferred to the spouse or heir, or under the will, of such deceased person.

§ 58.1-2425. Disposition of revenues.

A. Except as provided in ~~§ 58.1-2402.1~~ § 58.1-2402.2 funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury. Except as otherwise provided in ~~§ 58.1-2402.1~~ § 58.1-2402.2 and 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; (iv) 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 paid into the Rail Enhancement Fund established by § 33.1-221.1:1.1; and (v) all additional revenues resulting from the fee imposed under subdivision A 5 of § 58.1-2402 as enacted by the 2004 Session of the General Assembly shall be used to pay the debt service on the bonds issued by the Virginia Public Building Authority for the Statewide Agencies Radio System (STARS) for the Department of State Police pursuant to the authority granted by the 2004 Session of the General Assembly.

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 Fund.

2. That the revenues generated by the provisions of this act shall not be used to calculate or reduce the share of local, federal, and state revenues otherwise available to participating jurisdictions. Further, such revenues and moneys shall not be included in any computation of, or formula for, a locality's ability to pay for public education, upon which appropriations of state revenues to local governments for public education are determined.

3. That the Commissioner of the Department of Taxation, the Commissioner of the Department of Motor Vehicles, and other appropriate entities shall develop guidelines, policies, and procedures for the efficient and effective collection and administration of the fees and taxes imposed under this act. The guidelines, policies, and procedures shall be made public at least 30 days prior to their implementation. The development of the guidelines, policies, and procedures shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). The Secretary of Finance may authorize an anticipation loan for purposes of meeting the requirements of this enactment.

4. That §§ 46.2-755.1, 46.2-755.2, 46.2-1167.1, 58.1-625.1, 58.1-802.1, and 58.1-2402.1 are repealed.