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## HOUSE BILL NO. 1239

Offered January 20, 2012

A BILL to amend and reenact §§ 58.1-603, 58.1-604, 58.1-604.1, 58.1-614, 58.1-638, and 58.1-639 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 33.1-23.03:11, relating to increasing the retail sales and use tax rate, subject to a statewide referendum on the same, and providing for the distribution of the revenues generated from any such increase.

Patron—Putney

Referred to Committee on Finance

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

1. That §§ 58.1-603, 58.1-604, 58.1-604.1, 58.1-614, 58.1-638, and 58.1-639 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 33.1-23.03:11 as follows:

§ 33.1-23.03:11. Supplemental Highway Construction and Maintenance Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Supplemental Highway Construction and Maintenance Fund, hereafter referred to as "the Fund." The Fund shall be considered a part of the Transportation Trust Fund. The Fund shall be established on the books of the Comptroller. The Fund shall consist of the retail sales and use tax revenues deposited into the Fund pursuant to clause (i) of subdivision G 1 of § 58.1-638 ( "the sales and use tax revenues"). The Fund shall also consist of such other funds as may be designated in the general appropriation act for deposit into the Fund. 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.

Each fiscal year the Commonwealth Transportation Board shall use \$200 million from such sales and use tax revenues deposited into the Fund for the construction, acquisition, or reconstruction of or improvements or additions to the secondary system of state highways of the Commonwealth, provided that \$100 million from such sales and use tax revenues shall be used for such purposes for the Commonwealth's fiscal year beginning July 1, 2012. Each county's share of such amount for the fiscal year shall be determined in accordance with the allocation formula under subsection A of § 33.1-23.4 for funds allocated to the secondary system of state highways. The remaining sales and use tax revenues deposited into the Fund during the fiscal year shall be distributed to the Highway Maintenance and Operating Fund and used by the Commonwealth Transportation Board (i) to repair bridges in the Commonwealth that are structurally deficient or functionally obsolete and (ii) for the maintenance of the Commonwealth's highways.

No expenditures or distributions 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, but shall be in addition thereto.

§ 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~~ five 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.

INTRODUCED

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59 § 58.1-604. Imposition of use tax.

60 There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a  
61 tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of  
62 such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount  
63 of ~~three and one-half percent through midnight on July 31, 2004, and four percent beginning on and~~  
64 ~~after August 1, 2004~~ *five percent*:

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

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

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

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

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

85 § 58.1-604.1. (Effective July 1, 2012) Use tax on motor vehicles, machinery, tools and equipment  
86 brought into Virginia for use in performing contracts.

87 In addition to the use tax levied pursuant to § 58.1-604 and notwithstanding the provisions of  
88 § 58.1-611, a use tax is levied upon the storage or use of all motor vehicles, machines, machinery, tools  
89 or other equipment brought, imported or caused to be brought into this Commonwealth for use in  
90 constructing, building or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or  
91 water system, drainage or dredging system, railway system, reservoir or dam, hydraulic or power plant,  
92 transmission line, tower, dock, wharf, excavation, grading, or other improvement or structure, or any  
93 part thereof. The rate of tax is ~~three and one-half percent through midnight on July 31, 2004, and four~~  
94 ~~percent beginning on and after August 1, 2004,~~ *five percent* on all tangible personal property except  
95 motor vehicles, which shall be taxed at the rate of three percent; aircraft, which shall be taxed at the  
96 rate of two percent; and watercraft, which shall be taxed at the rate of two percent with a maximum tax  
97 of \$1,000.

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

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

113 A transaction taxed under § 58.1-604, 58.1-605, 58.1-1402, 58.1-1502, 58.1-1736 or 58.1-2402 shall  
114 not also be taxed under this section, nor shall the same transaction be taxed more than once under any  
115 section.

116 § 58.1-614. Vending machine sales.

117 A. Notwithstanding the provisions of §§ 58.1-603 and 58.1-604, whenever a dealer makes sales of  
118 tangible personal property through vending machines, or in any other manner making collection of the  
119 tax impractical, as determined by the Tax Commissioner, such dealer shall be required to report his  
120 wholesale purchases for sale at retail from vending machines and shall be required to remit an amount

based on four and one-half percent through midnight on July 31, 2004, and five percent beginning on and after August 1, 2004, six percent of such wholesale purchases.

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

C. The provisions of subsections A and B of this section shall not be applicable to vending machine operators all of whose machines are under contract to nonprofit organizations. Such operators shall report only the gross receipts from machines selling items for more than 10 cents (\$0.10) and shall be required to remit an amount based on a percentage of their remaining gross sales established by the Tax Commissioner to take into account the inclusion of sales tax.

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

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

§ 58.1-638. 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 shall be paid, in the manner hereinafter provided in this section, to the Transportation Trust Fund as defined in § 33.1-23.03:1. 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: 60 percent to MWAA, up to a maximum annual amount of \$2 million, and 40 percent to air carrier airports as provided in subdivision A 3 a. Except for adjustments due to changes in enplaned passengers, no air carrier airport sponsor, excluding MWAA, shall receive less funds identified under subdivision A 3 a than it received in fiscal year 1994-1995.

Of the remaining amount:

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

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

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

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

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

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

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

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

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

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

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

(b) To finance up to 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.

(c) 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.

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

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

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

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

f. 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. Prior to the annual adoption of the Six-Year Improvement Program, the Commonwealth Transportation Board may allocate up to 20 percent of the funds in the Commonwealth Mass Transit Fund designated for capital purposes to transit

operating assistance if operating funds for the next fiscal year are estimated to be less than the current fiscal year's allocation, to attempt to maintain transit operations at approximately the same level as the previous fiscal year.

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 4c 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.

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 95 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 20 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.

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

D. The net revenue so distributable among the counties and cities shall be apportioned and distributed upon the basis of the latest yearly estimate of the population of cities and counties ages five to 19, provided by the Weldon Cooper Center for Public Service of the University of Virginia. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for persons who are domiciled in orphanages or charitable institutions or who are dependents living on any federal military or naval reservation or other federal property within the school division in which the institutions or federal military or naval reservation or other federal property is located. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for members of the military services who are under 20 years of age within the school division in which the parents or guardians of such persons legally reside. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for persons who are confined in state hospitals, state training schools or state training centers for the mentally retarded, mental institutions, or state or federal correctional institutions or who attend the Virginia School for the Deaf and the Blind within the school division in which the parents or guardians of such persons legally reside. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for persons who attend institutions of higher education within the school division in which the student's parents or guardians legally reside. To such estimate, the Department of Education shall add the population of students with disabilities, ages two through four and 20 through 21, as provided to the Department of Education by

305 school divisions. The revenue so apportionable and distributable is hereby appropriated to the several  
306 counties and cities for maintenance, operation, capital outlays, debt and interest payments, or other  
307 expenses incurred in the operation of the public schools, which shall be considered as funds raised from  
308 local resources. In any county, however, wherein is situated any incorporated town constituting a school  
309 division, the county treasurer shall pay into the town treasury for maintenance, operation, capital outlays,  
310 debt and interest payments, or other expenses incurred in the operation of the public schools, the proper  
311 proportionate amount received by him in the ratio that the school population of such town bears to the  
312 school population of the entire county. If the school population of any city or of any town constituting a  
313 school division is increased by the annexation of territory since the last estimate of school population  
314 provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this  
315 section, be added to the school population of such city or town as shown by the last such estimate and a  
316 proper reduction made in the school population of the county or counties from which the annexed  
317 territory was acquired.

318 E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a  
319 two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of  
320 hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment,  
321 wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the  
322 most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of  
323 Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated  
324 Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used,  
325 in part, to defray the cost of law enforcement. Not later than 30 days after the close of each quarter, the  
326 Comptroller shall transfer to the Game Protection Fund the appropriate amount of collections to be  
327 dedicated to such Fund. At any time that the balance in the Capital Improvement Fund, established  
328 under § 29.1-101.01, is equal to or in excess of \$35 million, any portion of sales and use tax revenues  
329 that would have been transferred to the Game Protection Fund, established under § 29.1-101, in excess  
330 of the net operating expenses of the Board, after deduction of other amounts which accrue to the Board  
331 and are set aside for the Game Protection Fund, shall remain in the general fund until such time as the  
332 balance in the Capital Improvement Fund is less than \$35 million.

333 F. 1. Of the net revenue generated from the one-half percent increase in the rate of the state sales  
334 and use tax effective August 1, 2004, pursuant to enactments of the 2004 Special Session I of the  
335 General Assembly, the Comptroller shall transfer from the general fund of the state treasury to the  
336 Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund established under  
337 § 58.1-638.1 an amount equivalent to one-half of the net revenue generated from such one-half percent  
338 increase as provided in this subdivision. The transfers to the Public Education Standards of  
339 Quality/Local Real Estate Property Tax Relief Fund under this subdivision shall be for one-half of the  
340 net revenue generated (and collected in the succeeding month) from such one-half percent increase for  
341 the month of August 2004 and for each month thereafter.

342 2. For the purposes of the Comptroller making the required transfers under subdivision 1, the Tax  
343 Commissioner shall make a written certification to the Comptroller no later than the twenty-fifth of each  
344 month certifying the sales and use tax revenues generated in the preceding month. Within three calendar  
345 days of receiving such certification, the Comptroller shall make the required transfers to the Public  
346 Education Standards of Quality/Local Real Estate Property Tax Relief Fund.

347 G. 1. *Of the net revenue generated from the increase in the rate of the state sales and use tax from*  
348 *four percent to five percent effective January 1, 2013, pursuant to enactments of the 2012 Session of the*  
349 *General Assembly, (i) an amount equivalent to one-half of the net revenue generated from such increase*  
350 *shall be deposited into the Supplemental Highway Construction and Maintenance Fund established*  
351 *under § 33.1-23.03:11, and (ii) the remaining one-half of the net revenue generated shall be deposited*  
352 *into the general fund of the state treasury and used for funding the provision of mental health services,*  
353 *public K through 12 education, and public higher education as provided in the general appropriation*  
354 *act. The deposits under clauses (i) and (ii) shall be for one-half of the net revenue generated (and*  
355 *collected in the succeeding month) from such increase for the month of January 2013 and for each*  
356 *month thereafter.*

357 2. *For the purposes of the Comptroller making the required deposits under subdivision 1, the Tax*  
358 *Commissioner shall make a written certification to the Comptroller no later than the twenty-fifth of each*  
359 *month certifying the sales and use tax revenues generated in the preceding month. Within three calendar*  
360 *days of receiving such certification, the Comptroller shall make the required deposits to the*  
361 *Supplemental Highway Construction and Maintenance Fund and the general fund.*

362 H. If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall be  
363 corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.

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

§ 58.1-639. Transitional provisions.

A. To the extent of the ~~one-half percent~~ increase in the state sales and use tax rate effective August 1, 2004, enacted by the 2004 Special Session I 2012 Session of the Virginia General Assembly, the Tax Commissioner, upon application of the purchaser in accordance with regulations promulgated by the Commissioner, shall have the authority to refund state sales or use taxes paid on purchases of tangible personal property made pursuant to bona fide real estate construction contracts, contracts for the sale of tangible personal property, and leases, provided that the real estate construction contract, contract for the sale of tangible personal property or lease is entered into prior to the date of enactment of such increase in the state sales and use tax rate January 1, 2013; and further provided that the date of delivery of the tangible personal property is on or before ~~October 31, 2004~~ April 1, 2013. The term "bona fide contract," when used in this section in relation to real estate construction contracts, shall include but not be limited to those contracts which are entered into prior to the enactment of such increase in the state sales and use tax rate January 1, 2013, provided that such contracts include plans and specifications.

B. Notwithstanding the foregoing ~~October 31, 2004~~ April 1, 2013, delivery date requirement, 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.

2. That it shall be the duty of the regular election officers of the counties and cities of the Commonwealth conducting the election directed by law to be held on the Tuesday succeeding the first Monday in the month of November 2012 at the places appointed for holding the same, to open a poll on such day and take the sense of the qualified voters upon the ratification or rejection of an increase in the retail sales and use tax pursuant to the provisions of this act. The ballots shall be prepared, distributed, and voted, and the results thereof ascertained and certified, in accordance with Title 24.2 of the Code of Virginia, relating to special elections.

The ballot shall contain the following question:

"QUESTION: Shall the retail sales and use tax be increased from a rate of 5 percent to a rate of 6 percent with one-half of the revenues generated to be used for construction of secondary system roads, maintenance of roads, and the repair of bridges in the Commonwealth and one-half to be used for funding the provision of mental health services, public K through 12 education, and public higher education?"

The State Board of Elections shall comply with the notice requirements and all other provisions of § 30-19.10 of the Code of Virginia in conducting the referendum. In addition, the State Board of Elections shall cause to be printed and distributed to the general registrar of each county and city, not less than 90 days prior to the election, copies of the full text of this act to be placed at each registration site in sufficient number to provide a copy to any interested person, and to election officials to be posted at the polling places on the day of the election. The State Board of Elections shall without delay make out and transmit to the Governor an official copy of the report of the whole number of votes cast at the election for and against the referendum question, certified by it. The expenses incurred in conducting this election shall be defrayed as in the case of election of members of the General Assembly.

3. That the provisions of the first enactment of this act shall be effective on January 1, 2013, and only if a majority of those voting at the election and upon the question described in the second enactment of this act vote in the affirmative upon such question.