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HOUSE BILL NO. 729

Offered January 8, 2014

Prefiled January 7, 2014

A BILL to amend and reenact §§ 15.2-5800, 15.2-5921, 33.1-23.03:2, 33.1-23.03:8, 58.1-320, and 58.1-321, §§ 58.1-603, 58.1-604, and 58.1-604.1, as they are currently effective and as they may become effective, §§ 58.1-608.3, 58.1-609.5, 58.1-609.10, 58.1-609.11, and 58.1-611.1, § 58.1-614, as it is currently effective and as it may become effective, and §§ 58.1-638 and 58.1-639 of the Code of Virginia; to amend the Code of Virginia by adding in Article 1.1 of Chapter 1 of Title 33.1 a section numbered 33.1-23.5:5 and by adding a section numbered 58.1-604.1:1; and to repeal §§ 58.1-603.1 and 58.1-604.01 of the Code of Virginia, relating to revenues available for appropriation.

 Patron—Lingamfelter

 Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-5800, 15.2-5921, 33.1-23.03:2, 33.1-23.03:8, 58.1-320, and 58.1-321, §§ 58.1-603, 58.1-604, and 58.1-604.1, as they are currently effective and as they may become effective, §§ 58.1-608.3, 58.1-609.5, 58.1-609.10, 58.1-609.11, and 58.1-611.1, § 58.1-614, as it is currently effective and as it may become effective, and §§ 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 in Article 1.1 of Chapter 1 of Title 33.1 a section numbered 33.1-23.5:5 and by adding a section numbered 58.1-604.1:1 as follows:

§ 15.2-5800. Definitions; professional baseball games; consent for construction.

As used in this chapter the following words have the meanings indicated:

"Authority" means the Virginia Baseball Stadium Authority.

"Facility" means (i) major league and minor league baseball stadiums, (ii) practice fields or other areas where major league and minor league professional baseball teams may practice or perform, (iii) offices for major league and minor league professional baseball teams or franchises, (iv) office, restaurant, concessions, retail and lodging facilities which are owned and operated in connection with a major league baseball stadium, and (v) any other directly related properties including, but not limited to, onsite and offsite parking lots, garages, and other properties.

"Major league baseball" means the organization which controls the administrative functions for the ownership and operation of major league baseball operations in the United States and Canada.

"Major league baseball franchise" means the contractual right granted by major league baseball to any person or persons to own or operate a major league baseball team in a specified location.

"Major league baseball stadium" means a sports facility which is designed for use primarily as a baseball stadium and which meets criteria that may be established by major league baseball.

"Minor league baseball stadium" means a sports facility which is designed for use primarily as a stadium for a minor league professional baseball team.

"Sales tax revenues" means taxes collected under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.), as limited herein. Sales tax revenues shall not include (i) any local general retail sales and use tax levied pursuant to §§ 58.1-605 and 58.1-606, (ii) any sales and use tax revenues generated by increases or allocation changes imposed by the 2013 Session of the General Assembly, or (iii) any sales and use tax revenues generated by the 0.7 percent sales and use tax increase enacted by the 2014 Session of the General Assembly allocated to planning districts (as determined or drawn by the Department of Housing and Community Development pursuant to § 36-139.7) for transportation purposes.

§ 15.2-5921. (Contingent expiration date) Definitions.

As used in this chapter, unless the context requires a different meaning:

"Arena" means an arena or stadium with a seating capacity of at least 15,000 proposed to be constructed in the City of Virginia Beach, the purpose of which shall be (i) the conduct of games by a team that is a part of the National Hockey League or National Basketball Association or (ii) the holding of conferences and entertainment events.

"Facility" means an arena and any one or more of the following, which are both appurtenant to and directly or indirectly benefited by the presence of such arena or sports franchise: (i) practice facilities or other areas where sports teams may practice or perform; (ii) offices for sports teams or franchises; (iii) any office, restaurant, concessions, retail, and lodging facilities that are owned and operated adjacent to

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59 or in connection with an arena or other structure; and (iv) any other directly related properties including,
60 but not limited to, onsite and offsite parking lots, garages, and other properties.

61 "National Basketball Association team" or "Team that is a part of the National Basketball
62 Association" means a team that is part of the National Basketball Association, the National Basketball
63 Association Development League, or the Women's National Basketball Association.

64 "Sales and use tax revenues" means tax collections under the Virginia Retail Sales and Use Tax Act
65 (§ 58.1-600 et seq.), as limited herein, generated by (i) transactions taking place upon the premises of a
66 facility including transactions generating revenues in connection with the development and construction
67 of a facility that would not be generated but for the existence of the facility and (ii) transactions taking
68 place upon the premises of a temporary facility in connection with games or other activities of a sports
69 franchise conducted at such temporary facility based on the information supplied pursuant to
70 § 15.2-5926. For purposes of this chapter, "sales and use tax revenues" shall not include the revenue
71 generated by (i) the ~~one-half~~ 0.5 percent sales and use tax increase enacted by the 1986 Special Session
72 of the General Assembly which shall be paid into the Transportation Trust Fund as defined in
73 § 33.1-23.03:1, (ii) the one percent of the state sales and use tax revenue distributed among the counties
74 and cities of the Commonwealth pursuant to subsection D of § 58.1-638 on the basis of school-age
75 population, ~~or~~ (iii) ~~any sales and use tax revenues generated by~~ increases or allocation changes imposed
76 by the 2013 Session of the General Assembly, *or (iv) the 0.7 percent sales and use tax increase enacted*
77 *by the 2014 Session of the General Assembly allocated to planning districts (as determined or drawn by*
78 *the Department of Housing and Community Development pursuant to § 36-139.7) for transportation*
79 *purposes.*

80 "Sports franchise" means the contractual right granted to any person or persons to own or operate a
81 team that is a part of the National Hockey League or National Basketball Association in a specified
82 location.

83 "Temporary facility" means a facility or arena in which a sports franchise plays its "home" schedule
84 on a temporary basis during the development and construction of an arena.

85 **§ 33.1-23.03:2. Commonwealth Port Fund, Commonwealth Airport Fund, Commonwealth Mass**
86 **Transit Fund, Commonwealth Space Flight Fund, and Planning District (Planning District**
87 **Number) Transportation Fund.**

88 A. Of the funds becoming part of the Transportation Trust Fund pursuant to subdivision 3 of
89 § 33.1-23.03:1, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund; an
90 aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund; and an aggregate of 14.7
91 percent shall be set aside as the Commonwealth Mass Transit Fund.

92 B. Beginning with the Commonwealth's 2012-2013 fiscal year through the Commonwealth's
93 2016-2017 fiscal year, each fiscal year from the funds becoming part of the Transportation Trust Fund
94 pursuant to subdivision 3 of § 33.1-23.03:1 the Comptroller shall transfer \$9.5 million to the
95 Commonwealth Space Flight Fund.

96 *Beginning January 1, 2015, from the funds becoming part of the Transportation Trust Fund pursuant*
97 *to subdivision 3 of § 33.1-23.03:1, there shall be deposited into each Planning District (Planning*
98 *District Number) Transportation Fund established under § 33.1-23.5:5 the sales and use tax revenues*
99 *generated by a 0.7 percent state sales and use tax within the respective planning district as such*
100 *planning districts were determined or drawn as of January 1, 2014, by the Department of Housing and*
101 *Community Development pursuant to § 36-139.7. The net sales and use tax revenues to be deposited*
102 *shall be computed as an estimate of the net sales and use tax revenues to be received by the state*
103 *treasury each month, and such estimated payment shall be adjusted for the actual net revenues received*
104 *in the preceding month. All deposits into each Planning District (Planning District Number)*
105 *Transportation Fund shall be made on the last day of each month.*

106 C. The remaining funds deposited into or held in the Transportation Trust Fund pursuant to
107 subdivision 3 of § 33.1-23.03:1, together with funds deposited pursuant to subdivisions 1 and 6 of
108 § 33.1-23.03:1, shall be expended for capital improvements including construction, reconstruction,
109 maintenance, and improvements of highways according to the provisions of § 33.1-23.1 B or to secure
110 bonds issued for such purposes, as provided by the Board and the General Assembly.

111 **§ 33.1-23.03:8. Priority Transportation Fund established.**

112 A. There is hereby created in the state treasury a special nonreverting fund to be known as the
113 Priority Transportation Fund, hereafter referred to as "the Fund." The Fund shall be established on the
114 books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be
115 credited to it. All funds as may be designated in the appropriation act for deposit to the Fund shall be
116 paid into the state treasury and credited to the Fund. Such funds shall include:

117 1. Beginning with the fiscal year ending June 30, 2000, and for fiscal years thereafter, all revenues
118 that exceed the official forecast, pursuant to § 2.2-1503, for (i) the Highway Maintenance and Operating
119 Fund and (ii) the allocation to highway and mass transit improvement projects as set forth in
120 § 33.1-23.03:2, but not including any amounts that are allocated to the Commonwealth Port Fund and

the Commonwealth Airport Fund, and the Planning District (Planning District Number) Transportation Fund under such section;

2. All revenues deposited into the Fund pursuant to § 58.1-2531;

3. All revenues deposited into the Fund pursuant to subsection E of § 58.1-2289; and

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

All moneys in the Fund shall first be used for debt service payments on bonds or obligations for which the Fund is expressly required for making debt service payments, to the extent needed. The Fund shall be considered a part of the Transportation Trust Fund. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes enumerated in subsection B. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller.

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

C. Notwithstanding any other provision of this section, beginning July 1, 2007, no bonds, obligations, or other evidences of debt (the bonds) that expressly require as a source for debt service payments or for the repayment of such bonds the revenues of the Fund, shall be issued or entered into unless at the time of the issuance the revenues then in the Fund or reasonably anticipated to be deposited into the Fund pursuant to the law then in effect are by themselves sufficient to make 100 percent of the contractually required debt service payments on all such bonds, including any interest related thereto and the retirement of such bonds.

§ 33.1-23.5:5. Planning District Transportation Funds established.

There is hereby created in the state treasury a special nonreverting fund for each planning district of the Commonwealth as of January 1, 2014, with the exception of Planning District 8 and Planning District 23. The fund for each planning district shall be known as the "Planning District (Planning District Number) Transportation Fund," hereafter referred to as "the Fund" or "Funds." The Funds shall be established on the books of the Comptroller. All revenues dedicated to each Fund pursuant to subsection A of § 58.1-638 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in each Fund shall remain in the Fund and be credited to it. Any moneys remaining in each Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. The moneys deposited in each Fund shall be used solely for new construction projects on new or existing roads, bridges, and tunnels or mass transit projects within the geographical boundaries of the planning district (as such boundaries were determined or drawn by the Department of Housing and Community Development as of January 1, 2014, pursuant to § 36-139.7) to which the Fund relates. In consultation with the planning district commission, as established under Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2, for each planning district to which the Fund relates, the Commonwealth Transportation Board shall approve the projects to be funded or financed with moneys deposited in the Fund. Priority shall be given to those projects that are expected to provide the greatest impact on reducing congestion. The Board shall ensure that the moneys in the Fund shall be used for projects in each county and city within the planning district. However, projects approved by the Board shall be located (i) only in the counties and cities within the geographical boundaries of the planning district to which the Fund relates as such boundaries were determined or drawn by the Department of Housing and Community Development as of January 1, 2014, or (ii) in localities adjacent to such planning district but only to the extent that such extension is an insubstantial part of the project and is essential to the viability of the project within such planning district.

The revenues and moneys dedicated to the Funds shall be deposited monthly by the Comptroller into the applicable Fund. The amounts deposited into each Fund and the distribution and expenditure of such amounts shall not be used to calculate or reduce the share of local, federal, or 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.

§ 58.1-320. Imposition of tax.

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

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

185 Three percent on income in excess of \$3,000, but not in excess of \$5,000, *through December 31,*
186 *2014;*

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

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

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

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

195 *Two and ninety-five hundredths percent on income in excess of \$3,000 but not in excess of \$5,000*
196 *for taxable years beginning on and after January 1, 2015;*

197 Five percent on income in excess of \$5,000 but not in excess of \$17,000 for taxable years beginning
198 January 1, 1990, *through December 31, 2014;*

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

201 Five and three-quarters percent on income in excess of \$14,000 for taxable years beginning January
202 1, 1987, through December 31, 1987;

203 Five and three-quarters percent on income in excess of \$15,000 for taxable years beginning January
204 1, 1988, through December 31, 1988;

205 Five and three-quarters percent on income in excess of \$16,000 for taxable years beginning January
206 1, 1989, through December 31, 1989; and

207 *Four and nine-tenths percent on income in excess of \$5,000 but not in excess of \$17,000 for taxable*
208 *years beginning on and after January 1, 2015;*

209 Five and three-quarters percent on income in excess of \$17,000 for taxable years beginning on and
210 after January 1, 1990, *through December 31, 2014; and*

211 *Five and one-half percent on income in excess of \$17,000 for taxable years beginning on and after*
212 *January 1, 2015.*

213 **§ 58.1-321. Exemptions and exclusions.**

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

215 1. A single individual where the Virginia adjusted gross income for such taxable year is less than
216 \$5,000 for taxable years beginning on and after January 1, 1987, but before January 1, 2004.

217 A single individual where the Virginia adjusted gross income plus the modification specified in
218 subdivision D 5 of § 58.1-322 for such taxable year is less than \$5,000 for taxable years beginning on
219 and after January 1, 2004, but before January 1, 2005.

220 A single individual where the Virginia adjusted gross income plus the modification specified in
221 subdivision D 5 of § 58.1-322 for such taxable year is less than \$7,000 for taxable years beginning on
222 and after January 1, 2005, but before January 1, 2008.

223 A single individual where the Virginia adjusted gross income plus the modification specified in
224 subdivision D 5 of § 58.1-322 for such taxable year is less than \$11,250 for taxable years beginning on
225 and after January 1, 2008, but before January 1, 2010.

226 A single individual where the Virginia adjusted gross income plus the modification specified in
227 subdivision D 5 of § 58.1-322 for such taxable year is less than \$11,650 for taxable years beginning on
228 and after January 1, 2010, but before January 1, 2012.

229 A single individual where the Virginia adjusted gross income plus the modification specified in
230 subdivision D 5 of § 58.1-322 for such taxable year is less than \$11,950 for taxable years beginning on
231 and after January 1, 2012, *but before January 1, 2015.*

232 *A single individual where the Virginia adjusted gross income plus the modification specified in*
233 *subdivision D 5 of § 58.1-322 for such taxable year is less than \$15,000 for taxable years beginning on*
234 *and after January 1, 2015.*

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

238 An individual and spouse if their combined Virginia adjusted gross income plus the modification
239 specified in subdivision D 5 of § 58.1-322 is less than \$8,000 for taxable years beginning on and after
240 January 1, 2004, (or one-half of such amount in the case of a married individual filing a separate return)
241 but before January 1, 2005; less than \$14,000 for taxable years beginning on and after January 1, 2005,
242 (or one-half of such amount in the case of a married individual filing a separate return) but before
243 January 1, 2008; less than \$22,500 for taxable years beginning on and after January 1, 2008, (or

one-half of such amount in the case of a married individual filing a separate return) but before January 1, 2010; less than \$23,300 for taxable years beginning on and after January 1, 2010, (or one-half of such amount in the case of a married individual filing a separate return) but before January 1, 2012; and less than \$23,900 for taxable years beginning on and after January 1, 2012, (or one-half of such amount in the case of a married individual filing a separate return) *but before January 1, 2015; and less than \$30,000 for taxable years beginning on and after January 1, 2015, (or one-half of such amount in the case of a married individual filing a separate return).*

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

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

§ 58.1-603. (Contingent expiration date) 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 ~~4.3~~ *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 that are expressly stated as taxable within this chapter.

§ 58.1-603. (Contingent effective date) 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~~ *3.5* percent through midnight on July 31, 2004, ~~and four percent beginning on and after August 1, 2004, through midnight on December 31, 2014, and 4.7 percent beginning on and after January 1, 2015:~~

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

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

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

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

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

§ 58.1-604. (Contingent expiration date) Imposition of use tax.

There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount of ~~4.3~~ *five* percent:

1. Of the cost price of each item or article of tangible personal property used or consumed in this Commonwealth. Tangible personal property that has been acquired for use outside this Commonwealth and subsequently becomes subject to the tax imposed hereunder shall be taxed on the basis of its cost price if such property is brought within this Commonwealth for use within six months of its acquisition;

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

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

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

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

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

§ 58.1-604. (Contingent effective date) Imposition of use tax.

There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount of ~~three and one-half~~ 3.5 percent through midnight on July 31, 2004, ~~and four percent beginning on and after August 1, 2004, through midnight on December 31, 2014, and 4.7 percent beginning on and after January 1, 2015:~~

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

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

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

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

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

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

In addition to the use tax levied pursuant to § 58.1-604 and notwithstanding the provisions of § 58.1-611, a use tax is levied upon the storage or use of all motor vehicles, machines, machinery, tools or other equipment brought, imported or caused to be brought into this Commonwealth for use in constructing, building or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or water system, drainage or dredging system, railway system, reservoir or dam, hydraulic or power plant, transmission line, tower, dock, wharf, excavation, grading, or other improvement or structure, or any part thereof. The rate of tax is ~~4.3~~ five percent on all tangible personal property except motor vehicles, which shall be taxed at the rate set forth in § 58.1-2402; aircraft, which shall be taxed at the rate of two percent; and watercraft, which shall be taxed at the rate of two percent with a maximum tax of \$1,000. ~~However, the total rate of the state use tax in any county or city for which the tax under § 58.1-604.01 is imposed shall be 5.0 percent on all tangible personal property except motor vehicles, which shall be taxed at the rate set forth in § 58.1-2402; aircraft, which shall be taxed at the rate of two percent; and watercraft, which shall be taxed at the rate of two percent with a maximum tax of \$1,000.~~

For purposes of this section, "motor vehicle" means any vehicle which is self-propelled and designed primarily for use upon the highways, any vehicle which is propelled by electric power obtained from trolley wires but not operated upon rails, and any vehicle designed to run upon the highways which is pulled by a self-propelled vehicle, but shall not include any implement of husbandry, farm tractor, road

construction or maintenance machinery or equipment, special mobile equipment or any vehicle designed primarily for use in work off the highway.

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

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

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

In addition to the use tax levied pursuant to § 58.1-604 and notwithstanding the provisions of § 58.1-611, a use tax is levied upon the storage or use of all motor vehicles, machines, machinery, tools or other equipment brought, imported or caused to be brought into this Commonwealth for use in constructing, building or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or water system, drainage or dredging system, railway system, reservoir or dam, hydraulic or power plant, transmission line, tower, dock, wharf, excavation, grading, or other improvement or structure, or any part thereof. The rate of tax is ~~three and one-half~~ 3.5 percent through midnight on July 31, 2004, and four percent beginning on ~~and after~~ August 1, 2004, ~~through midnight on December 31, 2014, and 4.7 percent beginning on and after January 1, 2015,~~ on all tangible personal property except motor vehicles, which shall be taxed at the rate of three percent; aircraft, which shall be taxed at the rate of two percent; and watercraft, which shall be taxed at the rate of two percent with a maximum tax of \$1,000.

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

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

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

§ 58.1-604.1:1. Additional services and transactions subject to tax.

A. The state retail sales and use tax under this chapter and any tax imposed pursuant to the authority granted under §§ 58.1-605 and 58.1-606 shall apply to sales of or charges for the following services, transactions, and events whether or not (i) the service, transaction, or event is separately stated on a bill, invoice, ticket, or other billing statement or (ii) the true object of the sale or the charge is a service:

1. Admissions to cultural institutions and museums, amusement parks and entertainment facilities, fitness and recreational sports centers, film and art exhibitions, live sporting events, live performing arts performances, dance halls, and clubs;

2. Charges for bowling, ice skating, roller skating, and paint ball;

3. Charges for carpet, rug, and upholstery cleaning and repair;

4. Charges for delivering or shipping tangible personal property, parking excluding parking meters, taxi and limousine services, armored car services, and other charges for travel;

5. Funeral, cremation, and cemetery services;

6. Charges for golfing public and private courses, including cart charges;

7. Hairdressing, nail care, personal exercise programs, and diet and weight-reducing services (other

428 *than surgical procedures or services performed by a licensed doctor);*
429 *8. Motor vehicle repairs, including painting and remodeling of motor vehicles;*
430 *9. Car and motor vehicle washes and cleanings;*
431 *10. Jewelry repairs;*
432 *11. Laundry and linen cleanings;*
433 *12. Docking charges, slip charges, and other charges for the use of a marina;*
434 *13. Membership fees and dues;*
435 *14. Pet care;*
436 *15. Refrigerated storage, mini-warehouse storage, and self-storage units; and*
437 *16. Labor, maintenance, or repair work performed on machinery, equipment, appliances, electronics,*
438 *and all other tangible personal property.*

439 *B. All net revenue from the local sales tax collected by the Tax Commissioner from (i) admissions*
440 *described under subdivision A 1 shall be sourced to the county or city of the place in which admission*
441 *is gained, (ii) membership fees and dues under subdivision A 13 shall be sourced to the county or city*
442 *of the facility used by the dues-paying members, and (iii) all other services, transactions, or events*
443 *described under subsection A shall be distributed pursuant to subsection F of § 58.1-605. To the extent*
444 *reasonably practicable, out-of-state dealers who hold certificates of registration to collect the retail use*
445 *tax from their customers for remittance to the Commonwealth shall break down their shipments into the*
446 *Commonwealth in accordance with subsection F of § 58.1-606.*

447 **§ 58.1-608.3. Entitlement to certain sales tax revenues.**

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

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

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

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

467 *"Public facility" means (i) any auditorium, coliseum, convention center, sports facility that is*
468 *designed for use primarily as a baseball stadium for a minor league professional baseball affiliated team*
469 *or structures attached thereto, or conference center, which is owned by a Virginia county, city, town,*
470 *authority, or other public entity and where exhibits, meetings, conferences, conventions, seminars, or*
471 *similar public events may be conducted; (ii) any hotel which is owned by a foundation whose sole*
472 *purpose is to benefit a state-supported university and which is attached to and is an integral part of such*
473 *facility, together with any lands reasonably necessary for the conduct of the operation of such events;*
474 *(iii) any hotel which is attached to and is an integral part of such facility; or (iv) any hotel that is*
475 *adjacent to a convention center owned by a public entity and where the hotel owner enters into a*
476 *public-private partnership whereby the locality contributes infrastructure, real property, or conference*
477 *space. However, such public facility must be located in the City of Fredericksburg, City of Hampton,*
478 *City of Lynchburg, City of Newport News, City of Norfolk, City of Portsmouth, City of Richmond, City*
479 *of Roanoke, City of Salem, City of Staunton, City of Suffolk, City of Virginia Beach, City of*
480 *Winchester, or Town of Wise. Any property, real, personal, or mixed, which is necessary or desirable in*
481 *connection with any such auditorium, coliseum, convention center, baseball stadium or conference*
482 *center, including, without limitation, facilities for food preparation and serving, parking facilities, and*
483 *administration offices, is encompassed within this definition. However, structures commonly referred to*
484 *as "shopping centers" or "malls" shall not constitute a public facility hereunder. A public facility shall*
485 *not include residential condominiums, townhomes, or other residential units. In addition, only a new*
486 *public facility, or a public facility which will undergo a substantial and significant renovation or*
487 *expansion, shall be eligible under subsection C. A new public facility is one whose construction began*
488 *after December 31, 1991. A substantial and significant renovation entails a project whose cost is at least*
489 *50 percent of the original cost of the facility being renovated and shall have begun after December 31,*

1991. A substantial and significant expansion entails an increase in floor space of at least 50 percent over that existing in the preexisting facility and shall have begun after December 31, 1991; or an increase in floor space of at least 10 percent over that existing in a public facility that qualified as such under this section and was constructed after December 31, 1991.

"Sales tax revenues" means such tax collections realized under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.), as limited herein. "Sales tax revenues" does not include the revenue generated by (i) the 0.5 percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly which shall be paid to the Transportation Trust Fund as defined in § 33.1-23.03:1, (ii) the 1.0 percent of the state sales and use tax revenue distributed among the counties and cities of the Commonwealth pursuant to subsection D of § 58.1-638 on the basis of school age population, ~~or~~ (iii) ~~any sales and use tax revenues generated by increases or allocation changes imposed by the 2013 Session of the General Assembly, or (iv) the 0.7 percent sales and use tax increase enacted by the 2014 Session of the General Assembly allocated to planning districts (as determined or drawn by the Department of Housing and Community Development pursuant to § 36-139.7) for transportation purposes.~~ For a public facility that is a sports facility, "sales tax revenues" shall include such revenues generated by transactions taking place upon the premises of a baseball stadium or structures attached thereto.

B. Notwithstanding the definition of "public facility" in subsection A, a development project that meets the requirements for a "development of regional impact" set forth herein shall be deemed to be a public facility under the provisions of this section. The locality in which the public facility is located shall be entitled to all sales tax revenues generated by transactions taking place at such public facility solely to pay the cost of any bonds issued to pay the cost, or portion thereof, of such public facility pursuant to subsection C. For purposes of this subsection, the development of regional impact must be located in the City of Bristol.

For purposes of this subsection, a "development of regional impact" means a development project (i) towards which the locality contributes infrastructure or real property as part of a public-private partnership with the developer that is equal to at least 20 percent of the aggregate cost of development, (ii) that is reasonably expected to require a capital investment of at least \$50 million, (iii) that is reasonably expected to generate at least \$5 million annually in state sales and use tax revenue from sales within the development, (iv) that is reasonably expected to attract at least one million visitors annually, (v) that is reasonably expected to create at least 2,000 permanent jobs, (vi) that is located in a locality that had a rate of unemployment at least three percentage points higher than the statewide average in November 2011, and (vii) that is located in a locality that is adjacent to a state that has adopted a Border Region Retail Tourism Development District Act. Within 30 days from the date of notification by a locality that it intends to contribute infrastructure or real property as part of a public-private partnership with the developer of a development of regional impact, the Department of Taxation shall review the findings of the locality with respect to clauses (i) through (vi) and shall file a written report with the Chairmen of the House Committee on Finance, the House Committee on Appropriations, and the Senate Committee on Finance.

C. Any municipality which has issued bonds (i) after December 31, 1991, but before January 1, 1996, (ii) on or after January 1, 1998, but before July 1, 1999, (iii) on or after January 1, 1999, but before July 1, 2001, (iv) on or after July 1, 2000, but before July 1, 2003, (v) on or after July 1, 2001, but before July 1, 2005, (vi) on or after July 1, 2004, but before July 1, 2007, (vii) on or after July 1, 2009, but before July 1, 2012, (viii) on or after January 1, 2011, but prior to July 1, 2015, or (ix) on or after January 1, 2013, but prior to July 1, 2017, to pay the cost, or portion thereof, of any public facility shall be entitled to all sales tax revenues generated by transactions taking place in such public facility. Such entitlement shall continue for the lifetime of such bonds, which entitlement shall not exceed 35 years, and all such sales tax revenues shall be applied to repayment of the bonds. The State Comptroller shall remit such sales tax revenues to the municipality on a quarterly basis, subject to such reasonable processing delays as may be required by the Department of Taxation to calculate the actual net sales tax revenues derived from the public facility. The State Comptroller shall make such remittances to eligible municipalities, as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.). No such remittances shall be made until construction is completed and, in the case of a renovation or expansion, until the governing body of the municipality has certified that the renovation or expansion is completed.

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

§ 58.1-609.5. Service exemptions.

A. The tax imposed by this chapter or pursuant to the authority granted in § 58.1-605 or 58.1-606 shall not apply to the following:

1. Professional, or insurance, or personal service transactions which, including warranty plans issued by an insurance company, that involve sales as inconsequential elements for which no separate charges are made; services rendered by repairmen for which a separate charge is made; and services not involving an exchange of tangible personal property which that provide access to or use of the Internet and any other related electronic communication service, including software, data, content, and other information services delivered electronically via the Internet.

2. An amount separately charged for labor or services rendered in installing, applying, remodeling, or repairing property sold or rented.

3. Transportation charges separately stated.

4. Separately stated charges for alterations to apparel, clothing and garments.

5. Charges for gift wrapping services performed by a nonprofit organization.

6. 4. An amount separately charged for labor or services rendered in connection with the modification of prewritten programs as defined in § 58.1-602.

7. 5. Custom programs as defined in § 58.1-602.

8. 6. The sale or charges for any room or rooms, lodgings, or accommodations furnished to transients for more than 90 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration.

9. Beginning January 1, 1996, maintenance contracts, the terms of which provide for both repair or replacement parts and repair labor, shall be subject to tax upon one-half of the total charge for such contracts only. Persons providing maintenance pursuant to such a contract may purchase repair or replacement parts under a resale certificate of exemption. Warranty plans issued by an insurance company, which constitute insurance transactions, are subject to the provisions of subdivision 1 above.

B. The exemptions from tax under subsection A shall not apply to the sale of or charges for any services, transactions, or events that are taxable under § 58.1-604.1:1 whether or not (i) such taxable services, transactions, or events are separately stated on a bill, invoice, ticket, or other billing statement or (ii) the true object of the sale or charge is a service.

§ 58.1-609.10. Miscellaneous exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Artificial or propane gas, firewood, coal or home heating oil used for domestic consumption. "Domestic consumption" means the use of artificial or propane gas, firewood, coal or home heating oil by an individual purchaser for other than business, commercial or industrial purposes. The Tax Commissioner shall establish by regulation a system for use by dealers in classifying individual purchases for domestic or nondomestic use based on the principal usage of such gas, wood, coal or oil. Any person making a nondomestic purchase and paying the tax pursuant to this chapter who uses any portion of such purchase for domestic use may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for a refund of the tax paid on the domestic use portion.

2. An occasional sale, as defined in § 58.1-602. A nonprofit organization that is eligible to be granted an exemption on its purchases pursuant to § 58.1-609.11, and that is otherwise eligible for the exemption pursuant to this subdivision, shall (i) be exempt pursuant to this subdivision on its sales of (i) food, prepared food, and meals, so long as such sales take place on fewer than 24 occasions in a calendar year and (ii) notwithstanding any tax described under § 58.1-604.1:1, be exempt on its sales of tickets to events that include the provision of food, prepared food, and meals, so long as such sales take place on fewer than 24 occasions in a calendar year.

3. Tangible personal property for future use by a person for taxable lease or rental as an established business or part of an established business, or incidental or germane to such business, including a simultaneous purchase and taxable leaseback.

4. Delivery of tangible personal property outside the Commonwealth for use or consumption outside of the Commonwealth. Delivery of goods destined for foreign export to a factor or export agent shall be deemed to be delivery of goods for use or consumption outside of the Commonwealth.

5. Tangible personal property purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.

6. Tangible personal property purchased for use or consumption in the performance of maintenance and repair services at Nuclear Regulatory Commission-licensed nuclear power plants located outside the Commonwealth.

7. Beginning July 1, 1997, and ending July 1, 2006, a professional's provision of original, revised, edited, reformatted or copied documents, including but not limited to documents stored on or transmitted

by electronic media, to its client or to third parties in the course of the professional's rendition of services to its clientele.

8. School lunches sold and served to pupils and employees of schools and subsidized by government; school textbooks sold by a local board or authorized agency thereof; and school textbooks sold for use by students attending a college or other institution of learning, when sold (i) by such institution of learning or (ii) by any other dealer, when such textbooks have been certified by a department or instructor of such institution of learning as required textbooks for students attending courses at such institution.

9. Medicines, drugs, hypodermic syringes, artificial eyes, contact lenses, eyeglasses, eyeglass cases, and contact lens storage containers when distributed free of charge, all solutions or sterilization kits or other devices applicable to the wearing or maintenance of contact lenses or eyeglasses when distributed free of charge, and hearing aids dispensed by or sold on prescriptions or work orders of licensed physicians, dentists, optometrists, ophthalmologists, opticians, audiologists, hearing aid dealers and fitters, nurse practitioners, physician assistants, and veterinarians; controlled drugs purchased for use by a licensed physician, optometrist, licensed nurse practitioner, or licensed physician assistant in his professional practice, regardless of whether such practice is organized as a sole proprietorship, partnership, or professional corporation, or any other type of corporation in which the shareholders and operators are all licensed physicians, optometrists, licensed nurse practitioners, or licensed physician assistants engaged in the practice of medicine, optometry, or nursing; medicines and drugs purchased for use or consumption by a licensed hospital, nursing home, clinic, or similar corporation not otherwise exempt under this section; and samples of prescription drugs and medicines and their packaging distributed free of charge to authorized recipients in accordance with the federal Food, Drug, and Cosmetic Act (21 U.S.C.A. § 301 et seq., as amended). With the exceptions of those medicines and drugs used for agricultural production animals that are exempt to veterinarians under subdivision 1 of § 58.1-609.2, any veterinarian dispensing or selling medicines or drugs on prescription shall be deemed to be the user or consumer of all such medicines and drugs.

10. Wheelchairs and parts therefor, braces, crutches, prosthetic devices, orthopedic appliances, catheters, urinary accessories, other durable medical equipment and devices, and related parts and supplies specifically designed for those products; and insulin and insulin syringes, and equipment, devices or chemical reagents that may be used by a diabetic to test or monitor blood or urine, when such items or parts are purchased by or on behalf of an individual for use by such individual. Durable medical equipment is equipment that (i) can withstand repeated use, (ii) is primarily and customarily used to serve a medical purpose, (iii) generally is not useful to a person in the absence of illness or injury, and (iv) is appropriate for use in the home.

11. Drugs and supplies used in hemodialysis and peritoneal dialysis.

12. Special equipment installed on a motor vehicle when purchased by a handicapped person to enable such person to operate the motor vehicle.

13. Special typewriters and computers and related parts and supplies specifically designed for those products used by handicapped persons to communicate when such equipment is prescribed by a licensed physician.

14. a. (i) Any nonprescription drugs and proprietary medicines purchased for the cure, mitigation, treatment, or prevention of disease in human beings and (ii) any samples of nonprescription drugs and proprietary medicines distributed free of charge by the manufacturer, including packaging materials and constituent elements and ingredients.

b. The terms "nonprescription drugs" and "proprietary medicines" shall be defined pursuant to regulations promulgated by the Department of Taxation. The exemption authorized in this subdivision shall not apply to cosmetics.

15. Tangible personal property withdrawn from inventory and donated to (i) an organization exempt from taxation under § 501(c) (3) of the Internal Revenue Code or (ii) the Commonwealth, any political subdivision of the Commonwealth, or any school, agency, or instrumentality thereof.

16. Tangible personal property purchased by nonprofit churches that are exempt from taxation under § 501(c) (3) of the Internal Revenue Code, or whose real property is exempt from local taxation pursuant to the provisions of § 58.1-3606, for use (i) in religious worship services by a congregation or church membership while meeting together in a single location and (ii) in the libraries, offices, meeting or counseling rooms or other rooms in the public church buildings used in carrying out the work of the church and its related ministries, including kindergarten, elementary and secondary schools. The exemption for such churches shall also include baptistries; bulletins, programs, newspapers and newsletters that do not contain paid advertising and are used in carrying out the work of the church; gifts including food for distribution outside the public church building; food, disposable serving items, cleaning supplies and teaching materials used in the operation of camps or conference centers by the church or an organization composed of churches that are exempt under this subdivision and which are

used in carrying out the work of the church or churches; and property used in caring for or maintaining property owned by the church including, but not limited to, mowing equipment; and building materials installed by the church, and for which the church does not contract with a person or entity to have installed, in the public church buildings used in carrying out the work of the church and its related ministries, including, but not limited to worship services; administrative rooms; and kindergarten, elementary, and secondary schools.

17. Medical products and supplies, which are otherwise taxable, such as bandages, gauze dressings, incontinence products and wound-care products, when purchased by a Medicaid recipient through a Department of Medical Assistance Services provider agreement.

18. Beginning July 1, 2007, and ending July 1, 2012, multifuel heating stoves used for heating an individual purchaser's residence. "Multifuel heating stoves" are stoves that are capable of burning a wide variety of alternative fuels, including, but not limited to, shelled corn, wood pellets, cherry pits, and olive pits.

19. Fabrication of animal meat, grains, vegetables, or other foodstuffs when the purchaser (i) supplies the foodstuffs and they are consumed by the purchaser or his family, (ii) is an organization exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code, or (iii) donates the foodstuffs to an organization exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code.

§ 58.1-609.11. Exemptions for nonprofit entities.

A. Any nonprofit organization that holds a valid certificate of exemption from the Department of Taxation, or any nonprofit church that holds a valid self-executing certificate of exemption, that exempts it from collecting or paying state and local retail sales or use taxes as of June 30, 2003, pursuant to § 58.1-609.4, 58.1-609.7, 58.1-609.8, 58.1-609.9, or 58.1-609.10, as such sections are in effect on June 30, 2003, shall remain exempt from the collection or payment of such taxes under the same terms and conditions as provided under such sections as such sections existed on June 30, 2003, until: (i) July 1, 2007, for such entities that were exempt under § 58.1-609.4; (ii) July 1, 2008, for such entities that were exempt under § 58.1-609.7; (iii) July 1, 2004, for the first one-half of such entities that were exempt under § 58.1-609.8, except churches, which will remain exempt under the same criteria and procedures in effect for churches on June 30, 2003; (iv) July 1, 2005, for the second one-half of such entities that were exempt under § 58.1-609.8; and (v) July 1, 2006, for such entities that were exempt under § 58.1-609.9 or under § 58.1-609.10. At the end of the applicable period of such exemptions, to maintain or renew an exemption for the period of time set forth in subsection E F, each entity must follow the procedures set forth in subsection B and meet the criteria set forth in subsection C. Provided, however, that any entity that was exempt from collecting sales and use tax shall continue to be exempt from such collection, and any entity that was exempt from paying sales and use tax for the purchase of services, as of June 30, 2003, shall continue to be exempt from such payment, provided that it follows the other procedures set forth in subsection B and meets the criteria set forth in subsection C. Provided further, however, that an educational institution doing business in the Commonwealth which provides a face-to-face educational experience in American government and was exempt pursuant to subdivision 4 of § 58.1-609.4 from paying sales and use tax for the purchase of services, as of June 30, 2003, shall continue to be exempt from such payment, provided that it follows the other procedures set forth in subsection B and meets the criteria set forth in subsection C.

B. On and after July 1, 2004, in addition to the organizations described in subsection A, the tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to purchases of tangible personal property for use or consumption by any nonprofit entity that, pursuant to this section, (i) files an appropriate application with the Department of Taxation, (ii) meets the applicable criteria, and (iii) is issued a certificate of exemption from the Department of Taxation for the period of time covered by the certificate.

C. To qualify for the exemption under subsection B, a nonprofit entity must meet the applicable criteria under this subsection as follows:

1. a. The entity (i) is exempt from federal income taxation ~~(i)~~ under (a) § 501(c)(3) of the Internal Revenue Code or ~~(ii) under (b) § 501(c)(4) of the Internal Revenue Code and, if it is exempt under § 501(c)(4) of the Internal Revenue Code, it is organized for a charitable purpose and (ii) had less than \$1 million in gross revenue in its previous fiscal year; or~~

b. The entity has annual gross receipts less than \$5,000, and the entity is organized for at least one of the purposes set forth in § 501(c)(3) of the Internal Revenue Code, or one of the charitable purposes set forth in § 501(c)(4) of the Internal Revenue Code; and

2. The entity is in compliance with all applicable state solicitation laws, and where applicable, provides appropriate verification of such compliance; and

3. The entity's annual general administrative costs, including salaries and fundraising, relative to its annual gross revenue, under generally accepted accounting principles, is not greater than 40 percent; and

4. If the entity's gross annual revenue was at least \$750,000 in the its previous fiscal year, then the entity must provide the Department with a financial review performed by an independent certified public

736 *accountant or a financial audit performed by an independent certified public accountant. However, for*
 737 *any entity with gross annual revenue of at least \$1 million in the previous year, the Department may*
 738 *require that the entity provide a financial audit performed by an independent certified public accountant.*
 739 *If the Department specifically requires an entity with gross annual revenue of at least \$1 million in the*
 740 *previous year to provide a financial audit performed by an independent certified public accountant, then*
 741 *the entity shall provide such audit in order to qualify for the exemption under this section, which audit*
 742 *shall be in lieu of the financial review; and*

743 5. If the entity filed a federal 990 or 990 EZ tax form, or the successor forms to such forms, with
 744 the Internal Revenue Service, then it must provide a copy of such form to the Department of Taxation;
 745 and

746 6. If the entity did not file a federal 990 or 990 EZ tax form, or the successor forms to such forms,
 747 with the Internal Revenue Service, then the entity must provide the following information:

748 a. A list of the Board of Directors or other responsible agents of the entity, composed of at least two
 749 individuals, with names and addresses where the individuals physically can be found; and

750 b. The location where the financial records of the entity are available for public inspection.

751 D. On and after July 1, 2004, in addition to the criteria set forth in subsection C, the Department of
 752 Taxation shall ask each entity for the total taxable purchases made in the preceding year, unless such
 753 records are not available through no fault of the entity. If the records are not available through no fault
 754 of the entity, then the entity must provide such information to the Department the following year. No
 755 information provided pursuant to this subsection (except the failure to provide available information)
 756 shall be a basis for the Department of Taxation to refuse to exempt an entity.

757 E. Any entity that is determined under subsections B, C, and D by the Department of Taxation to be
 758 exempt from paying sales and use tax shall also be exempt from collecting sales and use tax, at its
 759 election, if (i) the entity is within the same class of organization of any entity that was exempt from
 760 collecting sales and use tax on June 30, 2003, or (ii) the entity is organized exclusively to foster,
 761 sponsor, and promote physical education, athletic programs, and contests for youths in the
 762 Commonwealth.

763 F. The duration of each exemption granted by the Department of Taxation shall be no less than five
 764 years and no greater than seven years. During the period of such exemption, the failure of an exempt
 765 entity to maintain compliance with the applicable criteria set forth in subsection C shall constitute
 766 grounds for revocation of the exemption by the Department. At the end of the period of such exemption,
 767 to maintain or renew the exemption, each entity must provide the Department of Taxation the same
 768 information as required upon initial exemption and meet the same criteria.

769 G. For purposes of this section, the Department of Taxation and the Department of Agriculture and
 770 Consumer Services shall be allowed to share information when necessary to supplement the information
 771 required.

772 **§ 58.1-611.1. Rate of tax on sales of food purchased for human consumption.**

773 A. The tax imposed by §§ 58.1-603 and 58.1-604 on food purchased for human consumption shall be
 774 levied and distributed as follows:

775 1. From January 1, 2000, through midnight on June 30, 2005, the tax rate on such food shall be
 776 three percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the
 777 revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of
 778 § 58.1-638, (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in
 779 subsections B, C and D of § 58.1-638, and (iii) the revenue from the tax at the rate of one and one-half
 780 percent shall be used for general fund purposes.

781 2. On and after July 1, 2005, *through midnight on May 31, 2015*, the tax rate on such food shall be
 782 one and one-half percent of the gross sales price. The revenue from the tax shall be distributed as
 783 follows: (i) the revenue from the tax at the rate of one-half percent shall be distributed as provided in
 784 subsection A of § 58.1-638 and (ii) the revenue from the tax at the rate of one percent shall be
 785 distributed as provided in subsections B, C and D of § 58.1-638.

786 B. The provisions of this section shall not affect the imposition of tax on food purchased for human
 787 consumption pursuant to §§ 58.1-605 and 58.1-606 *through midnight on May 31, 2015*.

788 C. *Beginning June 1, 2015, the tax imposed by this chapter or pursuant to the authority granted by*
 789 *§§ 58.1-605 and 58.1-606 shall not apply to food purchased for human consumption.*

790 D. As used in this section, "food purchased for human consumption" has the same meaning as "food"
 791 defined in the Food Stamp Act of 1977, 7 U.S.C. § 1012, as amended, and federal regulations adopted
 792 pursuant to that Act, except it shall not include seeds and plants which produce food for human
 793 consumption. For the purpose of this section, "food purchased for human consumption" shall not include
 794 food sold by any retail establishment where the gross receipts derived from the sale of food prepared by
 795 such retail establishment for immediate consumption on or off the premises of the retail establishment
 796 constitutes more than 80 percent of the total gross receipts of that retail establishment, including but not

797 limited to motor fuel purchases, regardless of whether such prepared food is consumed on the premises
798 of that retail establishment. For purposes of this section, "retail establishment" means each place of
799 business for which any "dealer," as defined in § 58.1-612, is required to apply for and receive a
800 certificate of registration pursuant to § 58.1-613.

801 **§ 58.1-614. (Contingent expiration date) Vending machine sales.**

802 A. Notwithstanding the provisions of §§ 58.1-603 and 58.1-604, whenever a dealer makes sales of
803 tangible personal property through vending machines, or in any other manner making collection of the
804 tax impractical, as determined by the Tax Commissioner, such dealer shall be required to report his
805 wholesale purchases for sale at retail from vending machines and shall be required to remit an amount
806 based on ~~5.3~~ six percent of such wholesale purchases. ~~However, any dealer located in any county or city~~
807 ~~for which the taxes under §§ 58.1-603.1 and 58.1-604.01 are imposed shall be required to remit an~~
808 ~~amount based on 6.0 percent of such wholesale purchases.~~

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

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

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

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

825 **§ 58.1-614. (Contingent effective date) Vending machine sales.**

826 A. Notwithstanding the provisions of §§ 58.1-603 and 58.1-604, whenever a dealer makes sales of
827 tangible personal property through vending machines, or in any other manner making collection of the
828 tax impractical, as determined by the Tax Commissioner, such dealer shall be required to report his
829 wholesale purchases for sale at retail from vending machines and shall be required to remit an amount
830 based on ~~four and one-half~~ 4.5 percent through midnight on July 31, 2004, ~~and five percent beginning~~
831 ~~on and after August 1, 2004, through midnight on December 31, 2014, and 5.7 percent beginning on~~
832 ~~and after January 1, 2015, of such wholesale purchases.~~

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

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

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

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

849 **§ 58.1-638. Disposition of state sales and use tax revenue; localities' share; Game Protection**
850 **Fund.**

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

853 1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted
854 by the 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided
855 in this section, to the Transportation Trust Fund as defined in § 33.1-23.03:1. Of the funds paid to the
856 Transportation Trust Fund, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port
857 Fund as provided in this section; an aggregate of 2.4 percent shall be set aside as the Commonwealth
858 Airport Fund as provided in this section; and an aggregate of 14.7 percent 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.

3a. There is hereby created in the Department of the Treasury a special nonreverting fund that shall be a part of the Transportation Trust Fund and that shall be known as the Commonwealth Space Flight Fund. The Commonwealth Space Flight 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.

a. The amounts allocated to the Commonwealth Space Flight Fund pursuant to § 33.1-23.03:2 shall be allocated by the Commonwealth Transportation Board to the Board of Directors of the Virginia Commercial Space Flight Authority to be used to support the capital needs, maintenance, and operating costs of any and all facilities owned and operated by the Virginia Commercial Space Flight Authority.

b. Commonwealth Space Flight Fund revenue shall be allocated by the Board of Directors to the Virginia Commercial Space Flight Authority in order to foster and stimulate the growth of the commercial space flight industry in Virginia.

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

920 the purposes hereinafter specified.

921 b. The amounts allocated pursuant to this section shall be used to support the operating, capital, and
922 administrative costs of public transportation at a state share determined by the Commonwealth
923 Transportation Board, and these amounts may be used to support the capital project costs of public
924 transportation and ridesharing equipment, facilities, and associated costs at a state share determined by
925 the Commonwealth Transportation Board. Capital costs may include debt service payments on local or
926 agency transit bonds. In making these determinations, the Commonwealth Transportation Board shall
927 confer with the Director of the Department of Rail and Public Transportation. In development of the
928 Director's recommendation and subsequent allocation of funds by the Commonwealth Transportation
929 Board, the Director of the Department of Rail and Public Transportation and the Commonwealth
930 Transportation Board shall adhere to the following:

931 (1) For the distribution of revenues from the Commonwealth Mass Transit Fund, of those revenues
932 generated in 2014 and thereafter, the first \$160 million in revenues or the maximum available revenues
933 if less than \$160 million shall be distributed by the Commonwealth Transportation Board as follows:

934 (a) Funds for special programs, which shall include ridesharing, transportation demand management
935 programs, experimental transit, public transportation promotion, operation studies, and technical
936 assistance, shall not exceed 3 percent of the funds pursuant to this section and may be allocated to any
937 local governing body, planning district commission, transportation district commission, or public transit
938 corporation, or may be used directly by the Department of Rail and Public Transportation for the
939 following purposes and aid of public transportation services:

940 (i) To finance a program administered by the Department of Rail and Public Transportation designed
941 to promote the use of public transportation and ridesharing throughout Virginia.

942 (ii) To finance up to 80 percent of the cost of the development and implementation of projects where
943 the purpose of such project is to enhance the provision and use of public transportation services.

944 (b) At least 72 percent of the funds shall be distributed to each transit property in the same
945 proportion as its operating expenses bear to the total statewide operating expenses and shall be spent for
946 the purposes specified in subdivision 4 b.

947 (c) Twenty-five percent of the funds shall be allocated and distributed utilizing a tiered approach
948 evaluated by the Transit Service Delivery Advisory Committee along with the Director of the
949 Department of Rail and Public Transportation and established by the Commonwealth Transportation
950 Board for capital purposes based on asset need and anticipated state participation level and revenues.
951 The tier distribution measures may be evaluated by the Transit Service Delivery Advisory Committee
952 along with the Director of the Department of Rail and Public Transportation every three years and, if
953 redefined by the Board, shall be published at least one year in advance of being applied. Funds allocated
954 for debt service payments will be included in the tier that applies to the capital asset that is leveraged.

955 (d) Transfer of funds from funding categories in subdivisions 4 b (1)(a) and 4 b (1)(c) to 4 b (1)(b)
956 shall be considered by the Commonwealth Transportation Board in times of statewide economic distress
957 or statewide special need.

958 (2) The Commonwealth Transportation Board shall allocate the remaining revenues after the
959 application of the provisions set forth in subdivision 4 b (1) generated for the Commonwealth Mass
960 Transit Fund for 2014 and succeeding years as follows:

961 (a) Funds pursuant to this section shall be distributed among operating, capital, and special projects
962 in order to respond to the needs of the transit community.

963 (b) Of the funds pursuant to this section, at least 72 percent shall be allocated to support operating
964 costs of transit providers and distributed by the Commonwealth Transportation Board based on service
965 delivery factors, based on effectiveness and efficiency, as established by the Commonwealth
966 Transportation Board. These measures and their relative weight shall be evaluated every three years and,
967 if redefined by the Commonwealth Transportation Board, shall be published and made available for
968 public comment at least one year in advance of being applied. In developing the service delivery factors,
969 the Commonwealth Transportation Board shall create for the Department of Rail and Public
970 Transportation a Transit Service Delivery Advisory Committee, consisting of two members appointed by
971 the Virginia Transit Association, one member appointed by the Community Transportation Association
972 of Virginia, one member appointed by the Virginia Municipal League, one member appointed by the
973 Virginia Association of Counties, and three members appointed by the Director of the Department of
974 Rail and Public Transportation, to advise the Department of Rail and Public Transportation in the
975 development of a distribution process for the funds allocated pursuant to this subdivision 4 b (2)(b) and
976 how transit systems can incorporate these metrics in their transit development plans. The Transit Service
977 Delivery Advisory Committee shall elect a Chair. The Department of Rail and Public Transportation
978 shall provide administrative support to the committee. Effective July 1, 2013, the Transit Service
979 Delivery Advisory Committee shall meet at least annually and consult with interested stakeholders and
980 hold at least one public hearing and report its findings to the Director of the Department of Rail and
981 Public Transportation. Prior to the Commonwealth Transportation Board approving the service delivery

factors, the Director of the Department of Rail and Public Transportation along with the Chair of the Transit Service Delivery Advisory Committee shall brief the Senate Committee on Finance, the House Appropriations Committee, and the Senate and House Committees on Transportation on the findings of the Transit Service Delivery Advisory Committee and the Department's recommendation. Before redefining any component of the service delivery factors, the Commonwealth Transportation Board shall consult with the Director of the Department of Rail and Public Transportation, Transit Service Delivery Advisory Committee, and interested stakeholders and provide for a 45-day public comment period. Prior to approval of any amendment to the service delivery measures, the Board shall notify the aforementioned committees of the pending amendment to the service delivery factors and its content.

(c) Funds for special programs, which shall include ridesharing, transportation demand management programs, experimental transit, public transportation promotion, operation studies, and technical assistance, shall not exceed 3 percent of the funds pursuant to this section and may be allocated 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:

(i) 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.

(ii) To finance up to 80 percent of the cost of the development and implementation of projects where the purpose of such project is to enhance the provision and use of public transportation services.

(d) Of the funds pursuant to this section, 25 percent shall be allocated and distributed utilizing a tiered approach evaluated by the Transit Service Delivery Advisory Committee along with the Director of Rail and Public Transportation and established by the Commonwealth Transportation Board for capital purposes based on asset need and anticipated state participation level and revenues. The tier distribution measures may be evaluated by the Transit Service Delivery Advisory Committee along with the Director of Rail and Public Transportation every three years and, if redefined by the Board, shall be published at least one year in advance of being applied. Funds allocated for debt service payments shall be included in the tier that applies to the capital asset that is leveraged.

(e) Transfer of funds from funding categories in subdivisions 4 b (2)(c) and 4 b (2)(d) to 4 b (2)(b) shall be considered by the Commonwealth Transportation Board in times of statewide economic distress or statewide special need.

(f) The Department of Rail and Public Transportation may reserve a balance of up to five percent of the Commonwealth Mass Transit Fund revenues under this subsection in order to assure better stability in providing operating and capital funding to transit entities from year to year.

(3) The Commonwealth Mass Transit Fund shall not be allocated without requiring a local match from the recipient.

c. 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. The Commonwealth Transit Capital Fund shall not be allocated without requiring a local match from the recipient.

d. The Commonwealth Transportation Board may allocate up to three and one-half percent of the funds set aside for the Commonwealth Mass Transit Fund to support costs of project development, project administration, and project compliance incurred by the Department of Rail and Public Transportation in implementing rail, public transportation, and congestion management grants and programs.

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

1043 using WMATA's capital formula shall be paid first by NVTC. NVTC shall use 95 percent state aid for
1044 these payments.

1045 b. The remaining funds shall be apportioned to reflect WMATA's allocation formulas by using the
1046 related WMATA-allocated subsidies and relative shares of local transit subsidies. Capital costs shall
1047 include 20 percent of annual local bus capital expenses. Hold harmless protections and obligations for
1048 NVTC's jurisdictions agreed to by NVTC on November 5, 1998, shall remain in effect.

1049 Appropriations from the Commonwealth Mass Transit Fund are intended to provide a stable and
1050 reliable source of revenue as defined by Public Law 96-184.

1051 6. Notwithstanding any other provision of law, funds allocated to Metro may be disbursed by the
1052 Department of Rail and Public Transportation directly to Metro or to any other transportation entity that
1053 has an agreement to provide funding to Metro.

1054 B. The sales and use tax revenue generated by a one percent sales and use tax shall be distributed
1055 among the counties and cities of the Commonwealth in the manner provided in subsections C and D.

1056 C. The localities' share of the net revenue distributable under this section among the counties and
1057 cities shall be apportioned by the Comptroller and distributed among them by warrants of the
1058 Comptroller drawn on the Treasurer of Virginia as soon as practicable after the close of each month
1059 during which the net revenue was received into the state treasury. The distribution of the localities' share
1060 of such net revenue shall be computed with respect to the net revenue received into the state treasury
1061 during each month, and such distribution shall be made as soon as practicable after the close of each
1062 such month.

1063 D. The net revenue so distributable among the counties and cities shall be apportioned and
1064 distributed upon the basis of the latest yearly estimate of the population of cities and counties ages five
1065 to 19, provided by the Weldon Cooper Center for Public Service of the University of Virginia. Such
1066 population estimate produced by the Weldon Cooper Center for Public Service of the University of
1067 Virginia shall account for persons who are domiciled in orphanages or charitable institutions or who are
1068 dependents living on any federal military or naval reservation or other federal property within the school
1069 division in which the institutions or federal military or naval reservation or other federal property is
1070 located. Such population estimate produced by the Weldon Cooper Center for Public Service of the
1071 University of Virginia shall account for members of the military services who are under 20 years of age
1072 within the school division in which the parents or guardians of such persons legally reside. Such
1073 population estimate produced by the Weldon Cooper Center for Public Service of the University of
1074 Virginia shall account for individuals receiving services in state hospitals, state training centers, or
1075 mental health facilities, persons who are confined in state or federal correctional institutions, or persons
1076 who attend the Virginia School for the Deaf and the Blind within the school division in which the
1077 parents or guardians of such persons legally reside. Such population estimate produced by the Weldon
1078 Cooper Center for Public Service of the University of Virginia shall account for persons who attend
1079 institutions of higher education within the school division in which the student's parents or guardians
1080 legally reside. To such estimate, the Department of Education shall add the population of students with
1081 disabilities, ages two through four and 20 through 21, as provided to the Department of Education by
1082 school divisions. The revenue so apportionable and distributable is hereby appropriated to the several
1083 counties and cities for maintenance, operation, capital outlays, debt and interest payments, or other
1084 expenses incurred in the operation of the public schools, which shall be considered as funds raised from
1085 local resources. In any county, however, wherein is situated any incorporated town constituting a school
1086 division, the county treasurer shall pay into the town treasury for maintenance, operation, capital outlays,
1087 debt and interest payments, or other expenses incurred in the operation of the public schools, the proper
1088 proportionate amount received by him in the ratio that the school population of such town bears to the
1089 school population of the entire county. If the school population of any city or of any town constituting a
1090 school division is increased by the annexation of territory since the last estimate of school population
1091 provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this
1092 section, be added to the school population of such city or town as shown by the last such estimate and a
1093 proper reduction made in the school population of the county or counties from which the annexed
1094 territory was acquired.

1095 E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a
1096 two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of
1097 hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment,
1098 wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the
1099 most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of
1100 Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated
1101 Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used,
1102 in part, to defray the cost of law enforcement. Not later than 30 days after the close of each quarter, the
1103 Comptroller shall transfer to the Game Protection Fund the appropriate amount of collections to be
1104 dedicated to such Fund. At any time that the balance in the Capital Improvement Fund, established

under § 29.1-101.01, is equal to or in excess of \$35 million, any portion of sales and use tax revenues that would have been transferred to the Game Protection Fund, established under § 29.1-101, in excess of the net operating expenses of the Board, after deduction of other amounts which accrue to the Board and are set aside for the Game Protection Fund, shall remain in the general fund until such time as the balance in the Capital Improvement Fund is less than \$35 million.

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

2. Beginning July 1, 2013, of the remaining sales and use tax revenue, an amount equal to the revenue generated by a 0.125 percent sales and use tax shall be distributed to the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund established under § 58.1-638.1, and be used for the state's share of Standards of Quality basic aid payments.

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

G. (Contingent expiration date) Beginning July 1, 2013, of the remaining sales and use tax revenue, an amount equal to the following percentages of the revenue generated by a one-half percent sales and use tax, such as that paid to the Transportation Trust Fund as provided in subdivision A 1, shall be paid to the Highway Maintenance and Operating Fund:

1. For fiscal year 2014, an amount equal to 10 percent;
2. For fiscal year 2015, an amount equal to 20 percent;
3. For fiscal year 2016, an amount equal to 30 percent; and
4. For fiscal year 2017 and thereafter, an amount equal to 35 percent.

The Highway Maintenance and Operating Fund's share of the net revenue distributable under this subsection 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.

H. ~~(Contingent expiration date)~~ 1. The ~~additional~~ revenue generated by ~~increases in the~~ a 0.7 percent state sales and use tax from ~~each county and city located in Planning District 8 pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614, as of January 1, 2014,~~ shall be deposited by the Comptroller in the fund established under § 15.2-4838.01. *Planning District 8 shall embrace such counties and cities included within the geographical boundaries of the District as determined or drawn by the Department of Housing and Community Development pursuant to § 36-139.7.*

2. The ~~additional~~ revenue generated by ~~increases in the~~ a 0.7 percent state sales and use tax from ~~each county and city located in Planning District 23 pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614, as of January 1, 2014,~~ shall be deposited by the Comptroller in the fund established under § 33.1-23.5:4. *Planning District 23 shall embrace such counties and cities included within the geographical boundaries of the District as determined or drawn by the Department of Housing and Community Development pursuant to § 36-139.7.*

3. ~~The additional revenue generated by increases in the state sales and use tax in any other Planning District pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614 shall be deposited into special funds that shall be established by appropriate legislation.~~

4. The net revenues distributable under this subsection shall be computed as an estimate of the net revenue to be received by 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 appropriate funds on the last day of each month.

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

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

§ 58.1-639. Transitional provisions.

A. To the extent of the ~~0.3~~ 0.7 percent increase in the state sales and use tax rate effective July 1,

1166 2013 *January 1, 2015*, enacted by the 2013 2014 Session of the Virginia General Assembly, the Tax
1167 Commissioner, upon application of the purchaser in accordance with regulations promulgated by the
1168 Commissioner, shall have the authority to refund state sales or use taxes paid on purchases of tangible
1169 personal property made pursuant to bona fide real estate construction contracts, contracts for the sale of
1170 tangible personal property, and leases, provided that the real estate construction contract, contract for the
1171 sale of tangible personal property or lease is entered into prior to the date of enactment of such increase
1172 in the state sales and use tax rate; and further provided that the date of delivery of the tangible personal
1173 property is on or before ~~September 30, 2013~~ *March 31, 2015*. The term "bona fide contract," when used
1174 in this section in relation to real estate construction contracts, shall include but not be limited to those
1175 contracts which are entered into prior to the enactment of such increase in the state sales and use tax
1176 rate, provided that such contracts include plans and specifications.

1177 B. Notwithstanding the foregoing ~~September 30, 2013~~ *March 31, 2015*, delivery date requirement,
1178 with respect to bona fide real estate construction contracts which contain a specific and stated date of
1179 completion, the date of delivery of such tangible personal property shall be on or before the completion
1180 date of the applicable project.

1181 C. Applications for refunds pursuant to this section shall be made in accordance with the provisions
1182 of § 58.1-1823. Interest computed in accordance with § 58.1-1833 shall be added to the tax refunded
1183 pursuant to this section.

1184 *D. The provisions of this section shall not apply to the 0.7 percent increase in the state sales and*
1185 *use tax rate effective January 1, 2015, in Planning District 8 and Planning District 23.*

1186 2. That §§ 58.1-603.1 and 58.1-604.01 of the Code of Virginia are repealed effective January 1,
1187 2015.

1188 3. That the provisions of this act amending §§ 58.1-320 and 58.1-321 of the Code of Virginia shall
1189 become effective for taxable years beginning on and after January 1, 2015. All other provisions of
1190 this act shall become effective January 1, 2015.

1191 4. That the provisions of this act increasing the state retail sales and use tax by 0.7 percent shall
1192 expire on December 31 of any year in which the General Assembly (i) appropriates any of the
1193 revenues generated from such increase from any county or city located in Planning District 8 or
1194 Planning District 23 for any non-transportation-related purpose or (ii) fails to deposit an
1195 equivalent amount of the revenues generated by such increase from any other Planning District, as
1196 determined by the Tax Commissioner, into the Planning District (Planning District Number)
1197 Transportation Fund established for the respective Planning District under § 33.1-23.5:5 of the
1198 Code of Virginia, as contemplated under the amendments to § 33.1-23.03:2 of the Code of Virginia
1199 pursuant to this act.

1200 5. That the Department of Taxation shall develop and publish guidelines implementing the
1201 provisions of this act and shall update such guidelines thereafter as deemed necessary by the Tax
1202 Commissioner. The development and publication of such guidelines shall be exempt from the
1203 Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).