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HOUSE BILL NO. 605

Offered January 8, 2014

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A BILL to amend and reenact §§ 2.2-115, 15.2-5921, 58.1-608.3, 58.1-611.1, 58.1-638, and 58.1-638.2 of the Code of Virginia, relating to funds for economic development in localities with high unemployment rates.

Patrons—Campbell, Chafin and O'Quinn

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-115, 15.2-5921, 58.1-608.3, 58.1-611.1, 58.1-638, and 58.1-638.2 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-115. Governor's Development Opportunity Fund.

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

"New job" means employment of an indefinite duration, created as the direct result of the private investment, for which the firm pays the wages and standard fringe benefits for its employee, requiring a minimum of either (i) 35 hours of the employee's time a week for the entire normal year of the firm's operations, which "normal year" must consist of at least 48 weeks or (ii) 1,680 hours per year.

Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth to the location of the economic development project, positions with suppliers, and multiplier or spin-off jobs shall not qualify as new jobs. The term "new job" shall include positions with contractors provided that all requirements included within the definition of the term are met.

"Prevailing average wage" means that amount determined by the Virginia Employment Commission to be the average wage paid workers in the city or county of the Commonwealth where the economic development project is located. The prevailing average wage shall be determined without regard to any fringe benefits.

"Private investment" means the private investment required under this section.

B. There is created the Governor's Development Opportunity Fund (the Fund) to be used by the Governor to attract economic development prospects and secure the expansion of existing industry in the Commonwealth. The Fund shall consist of any funds appropriated to it by the general appropriation act and revenue from any other source, public or private. The Fund shall be established on the books of the Comptroller, and any funds remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund. The Governor shall report to the Chairmen of the House Committees on Appropriations and Finance and the Senate Committee on Finance as funds are awarded in accordance with this section.

C. 1. Funds shall be awarded from the Fund by the Governor as grants or loans to political subdivisions. *One-half of the funds shall be awarded for economic development projects in counties, cities, or towns that had an unemployment rate greater than six percent in the immediately preceding fiscal year.*

~~The criteria~~ 2. Criteria for making such grants or loans shall include (i) job creation, (ii) private capital investment, and (iii) anticipated additional state tax revenue expected to accrue to the state and affected localities as a result of the capital investment and jobs created. Loans shall be approved by the Governor and made in accordance with guidelines established by the Virginia Economic Development Partnership and approved by the Comptroller. Loans shall be interest-free unless otherwise determined by the Governor and shall be repaid to the Fund. The Governor may establish the interest rate to be charged; otherwise, any interest charged shall be at market rates as determined by the State Treasurer and shall be indicative of the duration of the loan. The Virginia Economic Development Partnership shall be responsible for monitoring repayment of such loans and reporting the receivables to the Comptroller as required.

Beginning with the five fiscal years from fiscal year 2006-2007 through fiscal year 2010-2011, and for every five fiscal years' period thereafter, in general, no less than ~~one-third~~ *one-half* of the moneys appropriated to the Fund in every such five-year period shall be awarded to counties and cities having an annual average unemployment rate that is greater than *six percent in the immediately preceding fiscal year. However, if such one-half requirement will not be met because economic development prospects in such counties and cities are unable to fulfill the applicable minimum private investment and new jobs requirements set forth in this section, then the remainder of such funds shall be awarded to counties and*

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59 *cities having an annual average unemployment rate that is greater than the final statewide average*
60 *unemployment rate for the calendar year that immediately precedes the calendar year of the award.*
61 *However, if such ~~one-third~~ one-half requirement still will not be met because economic development*
62 *prospects in such counties and cities are unable to fulfill the applicable minimum private investment and*
63 *new jobs requirements set forth in this section, then any funds remaining in the Fund at the end of the*
64 *five-year period that would have otherwise been awarded to such counties and cities shall be made*
65 *available for awards in the next five fiscal years' period.*

66 D. Funds may be used for public and private utility extension or capacity development on and off
67 site; public and private installation, extension, or capacity development of high-speed or broadband
68 Internet access, whether on or off site; road, rail, or other transportation access costs beyond the funding
69 capability of existing programs; site acquisition; grading, drainage, paving, and any other activity
70 required to prepare a site for construction; construction or build-out of publicly or privately owned
71 buildings; training; or grants or loans to an industrial development authority, housing and redevelopment
72 authority, or other political subdivision for purposes directly relating to any of the foregoing. However,
73 in no case shall funds from the Fund be used, directly or indirectly, to pay or guarantee the payment for
74 any rental, lease, license, or other contractual right to the use of any property.

75 It shall be the policy of the Commonwealth that moneys in the Fund shall not be used for any
76 economic development project in which a business relocates or expands its operations in one or more
77 Virginia localities and simultaneously closes its operations or substantially reduces the number of its
78 employees in another Virginia locality. The Secretary of Commerce and Trade shall enforce this policy
79 and for any exception thereto shall promptly provide written notice to the Chairmen of the Senate
80 Finance and House Appropriations Committees, which notice shall include a justification for any
81 exception to such policy.

82 E. 1. a. Except as provided in this subdivision, no grant or loan shall be awarded from the Fund
83 unless the project involves a minimum private investment of \$5 million and creates at least 50 new jobs
84 for which the average wage, excluding fringe benefits, is no less than the prevailing average wage. For
85 projects, including but not limited to projects involving emerging technologies, for which the average
86 wage of the new jobs created, excluding fringe benefits, is at least twice the prevailing average wage for
87 that locality or region, the Governor shall have the discretion to require no less than one-half the
88 number of new jobs as set forth for that locality in this subdivision.

89 b. Notwithstanding the provisions of subdivision a, a grant or loan may be awarded from the Fund if
90 the project involves a minimum private investment of \$100 million and creates at least 25 new jobs for
91 which the average wage, excluding fringe benefits, is no less than the prevailing average wage.

92 2. Notwithstanding the provisions of subdivision 1 a, in localities (i) with an annual unemployment
93 rate for the most recent calendar year for which such data is available that is greater than the final
94 statewide average unemployment rate for that calendar year or (ii) with a poverty rate for the most
95 recent calendar year for which such data is available that exceeds the statewide average poverty rate for
96 that year, a grant or loan may be awarded from the Fund pursuant to subdivision 1 a if the project
97 involves a minimum private investment of \$2.5 million and creates at least 25 new jobs for which the
98 average wage, excluding fringe benefits, is no less than 85 percent of the prevailing average wage.

99 3. Notwithstanding the provisions of subdivisions 1 a and 2, in localities (i) with an annual
100 unemployment rate for the most recent calendar year for which such data is available that is greater than
101 the final statewide average unemployment rate for that calendar year and (ii) with a poverty rate for the
102 most recent calendar year for which such data is available that exceeds the statewide average poverty
103 rate for that year, a grant or loan may be awarded from the Fund pursuant to such subdivisions if the
104 project involves a minimum private investment of \$1.5 million and creates at least 15 new jobs for
105 which the average wage, excluding fringe benefits, is no less than 85 percent of the prevailing average
106 wage.

107 4. For projects that are eligible under subdivision 2 or 3, the average wage of the new jobs,
108 excluding fringe benefits, shall be no less than 85 percent of the prevailing average wage. In addition,
109 for projects in such localities, the Governor may award a grant or loan for a project paying less than 85
110 percent of the prevailing average wage but still providing customary employee benefits, only after the
111 Secretary of Commerce and Trade has made a written finding that the economic circumstances in the
112 area are sufficiently distressed (i.e., high unemployment or underemployment and negative economic
113 forecasts) that assistance to the locality to attract the project is nonetheless justified. However, the
114 minimum private investment and number of new jobs required to be created as set forth in this
115 subsection shall still be a condition of eligibility for an award from the Fund. Such written finding shall
116 promptly be provided to the chairs of the Senate Committee on Finance and the House Committee on
117 Appropriations.

118 F. 1. The Virginia Economic Development Partnership shall assist the Governor in developing
119 objective guidelines and criteria that shall be used in awarding grants or making loans from the Fund.
120 The guidelines may require that as a condition of receiving any grant or loan incentive that is based on

employment goals, a recipient company must provide copies of employer quarterly payroll reports that have been provided to the Virginia Employment Commission to verify the employment status of any position included in the employment goal. The guidelines may include a requirement for the affected locality or localities to provide matching funds which may be cash or in-kind, at the discretion of the Governor. The guidelines and criteria shall include provisions for geographic diversity and a cap on the amount of funds to be provided to any individual project. At the discretion of the Governor, this cap may be waived for qualifying projects of regional or statewide interest. In developing the guidelines and criteria, the Virginia Economic Development Partnership shall use the measure for Fiscal Stress published by the Commission on Local Government of the Department of Housing and Community Development for the locality in which the project is located or will be located as one method of determining the amount of assistance a locality shall receive from the Fund.

2. a. Notwithstanding any provision in this section or in the guidelines, each political subdivision that receives a grant or loan from the Fund shall enter into a contract with each business beneficiary of funds from the Fund. A person or entity shall be a business beneficiary of funds from the Fund if grant or loan moneys awarded from the Fund by the Governor are paid to a political subdivision and (i) subsequently distributed by the political subdivision to the person or entity or (ii) used by the political subdivision for the benefit of the person or entity but never distributed to the person or entity.

b. The contract between the political subdivision and the business beneficiary shall provide in detail (i) the fair market value of all funds that the Commonwealth has committed to provide, (ii) the fair market value of all matching funds (or in-kind match) that the political subdivision has agreed to provide, (iii) how funds committed by the Commonwealth (including but not limited to funds from the Fund committed by the Governor) and funds that the political subdivision has agreed to provide are to be spent, (iv) the minimum private investment to be made and the number of new jobs to be created agreed to by the business beneficiary, (v) the average wage (excluding fringe benefits) agreed to be paid in the new jobs, (vi) the prevailing average wage, and (vii) the formula, means, or processes agreed to be used for measuring compliance with the minimum private investment and new jobs requirements, including consideration of any layoffs instituted by the business beneficiary over the course of the period covered by the contract.

The contract shall state the date by which the agreed upon private investment and new job requirements shall be met by the business beneficiary of funds from the Fund and may provide for the political subdivision to grant up to a 15-month extension of such date if deemed appropriate by the political subdivision subsequent to the execution of the contract. Any extension of such date granted by the political subdivision shall be in writing and promptly delivered to the business beneficiary, and the political subdivision shall simultaneously provide a copy of the extension to the Virginia Economic Development Partnership.

The contract shall provide that if the private investment and new job contractual requirements are not met by the expiration of the date stipulated in the contract, including any extension granted by the political subdivision, the business beneficiary shall be liable to the political subdivision for repayment of a portion of the funds provided under the contract. The contract shall include a formula for purposes of determining the portion of such funds to be repaid. The formula shall, in part, be based upon the fair market value of all funds that have been provided by the Commonwealth and the political subdivision and the extent to which the business beneficiary has met the private investment and new job contractual requirements. Any such funds repaid to the political subdivision that relate to the award from the Governor's Development Opportunity Fund shall promptly be paid over by the political subdivision to the Commonwealth by payment remitted to the State Treasurer. Upon receipt by the State Treasurer of such payment, the Comptroller shall deposit such repaid funds into the Governor's Development Opportunity Fund.

c. The contract shall be amended to reflect changes in the funds committed by the Commonwealth or agreed to be provided by the political subdivision.

d. Notwithstanding any provision in this section or in the guidelines, whenever layoffs instituted by a business beneficiary over the course of the period covered by a contract cause the net total number of the new jobs created to be fewer than the number agreed to, then the business beneficiary shall return the portion of any funds received pursuant to the repayment formula established by the contract.

3. Notwithstanding any provision in this section or in the guidelines, prior to executing any such contract with a business beneficiary, the political subdivision shall provide a copy of the proposed contract to the Attorney General. The Attorney General shall review the proposed contract (i) for enforceability as to its provisions and (ii) to ensure that it is in appropriate legal form. The Attorney General shall provide any written suggestions to the political subdivision within seven days of his receipt of the copy of the contract. The Attorney General's suggestions shall be limited to the enforceability of the contract's provisions and the legal form of the contract.

4. Notwithstanding any provision in this section or in the guidelines, a political subdivision shall not

182 expend, distribute, pledge, use as security, or otherwise use any award from the Fund unless and until
183 such contract as described herein is executed with the business beneficiary.

184 G. Within the 30 days immediately following June 30 and December 30 of each year, the Governor
185 shall provide a report to the Chairmen of the House Committees on Appropriations and Finance and the
186 Senate Committee on Finance which shall include, but is not limited to, the following information
187 regarding grants and loans awarded from the Fund during the immediately preceding six-month period
188 for economic development projects: the name of the company that is the business beneficiary of the
189 grant or loan and the type of business in which it engages; the location (county, city, or town) of the
190 project; the amount of the grant or loan committed from the Fund and the amount of all other funds
191 committed by the Commonwealth from other sources and the purpose for which such grants, loans, or
192 other funds will be used; the amount of all moneys or funds agreed to be provided by political
193 subdivisions and the purposes for which they will be used; the number of new jobs agreed to be created
194 by the business beneficiary; the amount of investment in the project agreed to be made by the business
195 beneficiary; the timetable for the completion of the project and new jobs created; the prevailing average
196 wage; and the average wage (excluding fringe benefits) agreed to be paid in the new jobs.

197 H. The Governor shall provide grants and commitments from the Fund in an amount not to exceed
198 the dollar amount contained in the Fund. If the Governor commits funds for years beyond the fiscal
199 years covered under the existing appropriation act, the State Treasurer shall set aside and reserve the
200 funds the Governor has committed, and the funds shall remain in the Fund for those future fiscal years.
201 No grant or loan shall be payable in the years beyond the existing appropriation act unless the funds are
202 currently available in the Fund.

203 **§ 15.2-5921. (Contingent expiration date) Definitions.**

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

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

209 "Facility" means an arena and any one or more of the following, which are both appurtenant to and
210 directly or indirectly benefited by the presence of such arena or sports franchise: (i) practice facilities or
211 other areas where sports teams may practice or perform; (ii) offices for sports teams or franchises; (iii)
212 any office, restaurant, concessions, retail, and lodging facilities that are owned and operated adjacent to
213 or in connection with an arena or other structure; and (iv) any other directly related properties including,
214 but not limited to, onsite and offsite parking lots, garages, and other properties.

215 "National Basketball Association team" or "Team that is a part of the National Basketball
216 Association" means a team that is part of the National Basketball Association, the National Basketball
217 Association Development League, or the Women's National Basketball Association.

218 "Sales and use tax revenues" means tax collections under the Virginia Retail Sales and Use Tax Act
219 (§ 58.1-600 et seq.), as limited herein, generated by (i) transactions taking place upon the premises of a
220 facility including transactions generating revenues in connection with the development and construction
221 of a facility that would not be generated but for the existence of the facility and (ii) transactions taking
222 place upon the premises of a temporary facility in connection with games or other activities of a sports
223 franchise conducted at such temporary facility based on the information supplied pursuant to
224 § 15.2-5926. For purposes of this chapter, "sales and use tax revenues" shall not include the revenue
225 generated by (i) the one-half percent sales and use tax increase enacted by the 1986 Special Session of
226 the General Assembly which shall be paid into the Transportation Trust Fund as defined in
227 § 33.1-23.03:1, (ii) the ~~one~~ two percent of the state sales and use tax revenue distributed among the
228 counties and cities of the Commonwealth pursuant to subsection D of § 58.1-638 on the basis of
229 school-age population, or (iii) any sales and use tax revenues generated by increases or allocation
230 changes imposed by the 2013 Session of the General Assembly.

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

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

236 **§ 58.1-608.3. Entitlement to certain sales tax revenues.**

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

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

240 "Cost," as applied to any public facility or to extensions or additions to any public facility, includes:
241 (i) the purchase price of any public facility acquired by the municipality or the cost of acquiring all of
242 the capital stock of the corporation owning the public facility and the amount to be paid to discharge
243 any obligations in order to vest title to the public facility or any part of it in the municipality; (ii)

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

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

"Public facility" means (i) any auditorium, coliseum, convention center, sports facility that is designed for use primarily as a baseball stadium for a minor league professional baseball affiliated team or structures attached thereto, or conference center, which is owned by a Virginia county, city, town, authority, or other public entity and where exhibits, meetings, conferences, conventions, seminars, or similar public events may be conducted; (ii) any hotel which is owned by a foundation whose sole purpose is to benefit a state-supported university and which is attached to and is an integral part of such facility, together with any lands reasonably necessary for the conduct of the operation of such events; (iii) any hotel which is attached to and is an integral part of such facility; or (iv) any hotel that is adjacent to a convention center owned by a public entity and where the hotel owner enters into a public-private partnership whereby the locality contributes infrastructure, real property, or conference space. However, such public facility must be located in the City of Fredericksburg, City of Hampton, City of Lynchburg, City of Newport News, City of Norfolk, City of Portsmouth, City of Richmond, City of Roanoke, City of Salem, City of Staunton, City of Suffolk, City of Virginia Beach, City of Winchester, or Town of Wise. Any property, real, personal, or mixed, which is necessary or desirable in connection with any such auditorium, coliseum, convention center, baseball stadium or conference center, including, without limitation, facilities for food preparation and serving, parking facilities, and administration offices, is encompassed within this definition. However, structures commonly referred to as "shopping centers" or "malls" shall not constitute a public facility hereunder. A public facility shall not include residential condominiums, townhomes, or other residential units. In addition, only a new public facility, or a public facility which will undergo a substantial and significant renovation or expansion, shall be eligible under subsection C. A new public facility is one whose construction began after December 31, 1991. A substantial and significant renovation entails a project whose cost is at least 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 ~~4.0~~ 2.0 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. 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

305 within the development, (iv) that is reasonably expected to attract at least one million visitors annually,
306 (v) that is reasonably expected to create at least 2,000 permanent jobs, (vi) that is located in a locality
307 that had a rate of unemployment at least three percentage points higher than the statewide average in
308 November 2011, and (vii) that is located in a locality that is adjacent to a state that has adopted a
309 Border Region Retail Tourism Development District Act. Within 30 days from the date of notification
310 by a locality that it intends to contribute infrastructure or real property as part of a public-private
311 partnership with the developer of a development of regional impact, the Department of Taxation shall
312 review the findings of the locality with respect to clauses (i) through (vi) and shall file a written report
313 with the Chairmen of the House Committee on Finance, the House Committee on Appropriations, and
314 the Senate Committee on Finance.

315 C. Any municipality which has issued bonds (i) after December 31, 1991, but before January 1,
316 1996, (ii) on or after January 1, 1998, but before July 1, 1999, (iii) on or after January 1, 1999, but
317 before July 1, 2001, (iv) on or after July 1, 2000, but before July 1, 2003, (v) on or after July 1, 2001,
318 but before July 1, 2005, (vi) on or after July 1, 2004, but before July 1, 2007, (vii) on or after July 1,
319 2009, but before July 1, 2012, (viii) on or after January 1, 2011, but prior to July 1, 2015, or (ix) on or
320 after January 1, 2013, but prior to July 1, 2017, to pay the cost, or portion thereof, of any public facility
321 shall be entitled to all sales tax revenues generated by transactions taking place in such public facility.
322 Such entitlement shall continue for the lifetime of such bonds, which entitlement shall not exceed 35
323 years, and all such sales tax revenues shall be applied to repayment of the bonds. The State Comptroller
324 shall remit such sales tax revenues to the municipality on a quarterly basis, subject to such reasonable
325 processing delays as may be required by the Department of Taxation to calculate the actual net sales tax
326 revenues derived from the public facility. The State Comptroller shall make such remittances to eligible
327 municipalities, as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail
328 Sales and Use Tax Act (§ 58.1-600 et seq.). No such remittances shall be made until construction is
329 completed and, in the case of a renovation or expansion, until the governing body of the municipality
330 has certified that the renovation or expansion is completed.

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

336 **§ 58.1-611.1. Rate of tax on sales of food purchased for human consumption.**

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

339 1. From January 1, 2000, through midnight on June 30, 2005, the tax rate on such food shall be
340 three percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the
341 revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of
342 § 58.1-638, (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in
343 subsections B, C and D of § 58.1-638, and (iii) the revenue from the tax at the rate of one and one-half
344 percent shall be used for general fund purposes.

345 2. On and after July 1, 2005, the tax rate on such food shall be one and one-half percent of the gross
346 sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the
347 rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638 and (ii) the
348 revenue from the tax at the rate of one percent shall be distributed as provided in ~~subsections B, C and~~
349 ~~subdivision D 2~~ of § 58.1-638.

350 B. The provisions of this section shall not affect the imposition of tax on food purchased for human
351 consumption pursuant to §§ 58.1-605 and 58.1-606.

352 C. As used in this section, "food purchased for human consumption" has the same meaning as "food"
353 defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted
354 pursuant to that Act, except it shall not include seeds and plants which produce food for human
355 consumption. For the purpose of this section, "food purchased for human consumption" shall not include
356 food sold by any retail establishment where the gross receipts derived from the sale of food prepared by
357 such retail establishment for immediate consumption on or off the premises of the retail establishment
358 constitutes more than 80 percent of the total gross receipts of that retail establishment, including but not
359 limited to motor fuel purchases, regardless of whether such prepared food is consumed on the premises
360 of that retail establishment. For purposes of this section, "retail establishment" means each place of
361 business for which any "dealer," as defined in § 58.1-612, is required to apply for and receive a
362 certificate of registration pursuant to § 58.1-613.

363 **§ 58.1-638. Disposition of state sales and use tax revenue; localities' share; Game Protection**
364 **Fund.**

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

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

428 be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Mass
429 Transit Fund.

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

435 b. The amounts allocated pursuant to this section shall be used to support the operating, capital, and
436 administrative costs of public transportation at a state share determined by the Commonwealth
437 Transportation Board, and these amounts may be used to support the capital project costs of public
438 transportation and ridesharing equipment, facilities, and associated costs at a state share determined by
439 the Commonwealth Transportation Board. Capital costs may include debt service payments on local or
440 agency transit bonds. In making these determinations, the Commonwealth Transportation Board shall
441 confer with the Director of the Department of Rail and Public Transportation. In development of the
442 Director's recommendation and subsequent allocation of funds by the Commonwealth Transportation
443 Board, the Director of the Department of Rail and Public Transportation and the Commonwealth
444 Transportation Board shall adhere to the following:

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

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

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

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

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

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

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

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

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

477 (b) Of the funds pursuant to this section, at least 72 percent shall be allocated to support operating
478 costs of transit providers and distributed by the Commonwealth Transportation Board based on service
479 delivery factors, based on effectiveness and efficiency, as established by the Commonwealth
480 Transportation Board. These measures and their relative weight shall be evaluated every three years and,
481 if redefined by the Commonwealth Transportation Board, shall be published and made available for
482 public comment at least one year in advance of being applied. In developing the service delivery factors,
483 the Commonwealth Transportation Board shall create for the Department of Rail and Public
484 Transportation a Transit Service Delivery Advisory Committee, consisting of two members appointed by
485 the Virginia Transit Association, one member appointed by the Community Transportation Association
486 of Virginia, one member appointed by the Virginia Municipal League, one member appointed by the
487 Virginia Association of Counties, and three members appointed by the Director of the Department of
488 Rail and Public Transportation, to advise the Department of Rail and Public Transportation in the
489 development of a distribution process for the funds allocated pursuant to this subdivision 4 b (2)(b) and

how transit systems can incorporate these metrics in their transit development plans. The Transit Service Delivery Advisory Committee shall elect a Chair. The Department of Rail and Public Transportation shall provide administrative support to the committee. Effective July 1, 2013, the Transit Service Delivery Advisory Committee shall meet at least annually and consult with interested stakeholders and hold at least one public hearing and report its findings to the Director of the Department of Rail and 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

551 Transportation in implementing rail, public transportation, and congestion management grants and
552 programs.

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

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

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

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

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

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

571 C. The localities' share of the net revenue distributable under this section among the counties and
572 cities shall be apportioned by the Comptroller and distributed among them by warrants of the
573 Comptroller drawn on the Treasurer of Virginia as soon as practicable after the close of each month
574 during which the net revenue was received into the state treasury. The distribution of the localities' share
575 of such net revenue shall be computed with respect to the net revenue received into the state treasury
576 during each month, and such distribution shall be made as soon as practicable after the close of each
577 such month.

578 D. ~~The~~ 1. One-half of the net revenue so distributable among counties and cities shall be distributed
579 to the counties and cities of the Commonwealth having an annual average unemployment rate that is
580 greater than six percent in the immediately preceding fiscal year. If more than one county or city is
581 eligible for the distribution pursuant to this subsection, then each such locality shall receive a fraction
582 of the amount to be distributed which has (i) as its numerator the locality's population according to the
583 most recent United States Census and (ii) as its denominator the total population of all such eligible
584 localities according to the most recent United States Census. No distributions under this subsection shall
585 be made if no county or city has an annual average unemployment rate that is greater than six percent
586 in the immediately preceding fiscal year. All distributions shall be used for economic development
587 purposes.

588 2. The remaining one-half of such net revenue so distributable among the counties and cities shall be
589 apportioned and distributed to all counties and cities upon the basis of the latest yearly estimate of the
590 population of cities and counties ages five to 19, provided by the Weldon Cooper Center for Public
591 Service of the University of Virginia. Such population estimate produced by the Weldon Cooper Center
592 for Public Service of the University of Virginia shall account for persons who are domiciled in
593 orphanages or charitable institutions or who are dependents living on any federal military or naval
594 reservation or other federal property within the school division in which the institutions or federal
595 military or naval reservation or other federal property is located. Such population estimate produced by
596 the Weldon Cooper Center for Public Service of the University of Virginia shall account for members of
597 the military services who are under 20 years of age within the school division in which the parents or
598 guardians of such persons legally reside. Such population estimate produced by the Weldon Cooper
599 Center for Public Service of the University of Virginia shall account for individuals receiving services in
600 state hospitals, state training centers, or mental health facilities, persons who are confined in state or
601 federal correctional institutions, or persons who attend the Virginia School for the Deaf and the Blind
602 within the school division in which the parents or guardians of such persons legally reside. Such
603 population estimate produced by the Weldon Cooper Center for Public Service of the University of
604 Virginia shall account for persons who attend institutions of higher education within the school division
605 in which the student's parents or guardians legally reside. To such estimate, the Department of Education
606 shall add the population of students with disabilities, ages two through four and 20 through 21, as
607 provided to the Department of Education by school divisions. The revenue so apportionable and
608 distributable is hereby appropriated to the several counties and cities for maintenance, operation, capital
609 outlays, debt and interest payments, or other expenses incurred in the operation of the public schools,
610 which shall be considered as funds raised from local resources. In any county, however, wherein is
611 situated any incorporated town constituting a school division, the county treasurer shall pay into the
612 town treasury for maintenance, operation, capital outlays, debt and interest payments, or other expenses

incurred in the operation of the public schools, the proper proportionate amount received by him in the ratio that the school population of such town bears to the school population of the entire county. If the school population of any city or of any town constituting a school division is increased by the annexation of territory since the last estimate of school population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school population of such city or town as shown by the last such estimate and a proper reduction made in the school population of the county or counties from which the annexed territory was acquired.

E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment, wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used, in part, to defray the cost of law enforcement. Not later than 30 days after the close of each quarter, the Comptroller shall transfer to the Game Protection Fund the appropriate amount of collections to be 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 - see note) 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 - see note) 1. The additional revenue generated by increases in the state sales and use tax from Planning District 8 pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614 shall be deposited by the Comptroller in the fund established under § 15.2-4838.01.

2. The additional revenue generated by increases in the state sales and use tax from Planning District 23 pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614 shall be deposited by the Comptroller in the fund established under § 33.1-23.5:4.

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.

674 4. The net revenues distributable under this subsection shall be computed as an estimate of the net
675 revenue to be received by the state treasury each month, and such estimated payment shall be adjusted
676 for the actual net revenue received in the preceding month. All payments shall be made to the
677 appropriate funds on the last day of each month.

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

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

683 **§ 58.1-638.2. (Contingent effective date) Disposition of state and local sales tax revenue collected**
684 **pursuant to federal legislation granting remote collection authority.**

685 Notwithstanding any provisions of § 58.1-638 to the contrary, any state and local sales and use tax
686 revenue collected pursuant to federal legislation granting the Commonwealth authority to compel remote
687 sellers to collect the tax for sales made into the Commonwealth shall be paid in the manner provided in
688 this section:

689 1. The sales and use tax revenue generated by a one percent sales and use tax shall be distributed
690 among the counties and cities of the Commonwealth in the manner provided in subsections F and G of
691 §§ 58.1-605 and 58.1-606. Each locality shall be required to designate an amount equal to 50 percent of
692 the local sales and use tax distribution to transportation needs.

693 2. The sales and use tax revenue generated by a ~~one~~ two percent sales and use tax shall be
694 distributed among the counties and cities of the Commonwealth in the manner provided in subsections C
695 and D of § 58.1-638.

696 3. The sales and use tax revenue generated by a 0.25 percent sales and use tax shall be distributed
697 among the counties and cities of the Commonwealth in the manner provided in § 58.1-638.1.

698 4. The Comptroller shall transfer annually to each locality that levied the local tax on fuels for
699 domestic consumption pursuant to the former § 58.1-609.13 an amount to compensate the locality for the
700 locality's revenue loss resulting from cessation of the local authority to impose tax on the sale of fuel
701 for domestic consumption due to the repeal of § 58.1-609.13. The amount paid to the locality shall be
702 an amount equal to the locality's revenue from its tax on fuels for domestic consumption in the calendar
703 year prior to the repeal of § 58.1-609.13, but the aggregate amount of such revenue paid to all localities
704 shall not exceed \$7.5 million per year. If the total aggregate amount exceeds \$7.5 million, then each
705 locality shall receive a pro rata portion based on the proportion that the locality's revenue from its tax
706 on fuels for domestic consumption in the calendar year preceding the repeal of § 58.1-609.13 is to the
707 total amount of such revenue in all localities that levied such tax.

708 5. Notwithstanding §§ 58.1-605, 58.1-606, and 58.1-638, all remaining revenue collected pursuant to
709 this section, as estimated by the Department, shall be transferred to the Transportation Trust Fund to be
710 allocated pursuant to § 33.1-23.03:2.