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SENATE BILL NO. 372

Offered January 13, 2016

Prefiled January 11, 2016

A BILL to amend and reenact §§ 3.2-3106, 3.2-4203, 36-139, 45.1-361.5, 45.1-361.38, 58.1-439.12:04, 58.1-439.17, 58.1-603.1, 58.1-604.01, 58.1-3706, 58.1-3713.3, and 58.1-3823 of the Code of Virginia and to repeal Chapter 1.4 (§ 36-55.63) of Title 36, §§ 58.1-339.5, 58.1-339.9, 58.1-434, 58.1-435, 58.1-439.1, 58.1-439.11, 58.1-439.13, 58.1-439.14, 58.1-439.15, 58.1-439.15:01, 58.1-439.16, and 58.1-639, Article 3 (§ 58.1-1840.1) of Chapter 18 and Article 10 (§ 58.1-2290.1) of Chapter 22 of Title 58.1, and §§ 58.1-3605.1, 58.1-3712.1, 58.1-3822, and 58.1-3825.1 of the Code of Virginia, relating to repealing certain Title 58.1-related obsolete statutes.

Patron—McDougle

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-3106, 3.2-4203, 36-139, 45.1-361.5, 45.1-361.38, 58.1-439.12:04, 58.1-439.17, 58.1-603.1, 58.1-604.01, 58.1-3706, 58.1-3713.3, and 58.1-3823 of the Code of Virginia are amended and reenacted as follows:

§ 3.2-3106. Tobacco Indemnification and Community Revitalization Fund; tax credits for technology industries in tobacco-dependent localities.

A. Money received by the Commonwealth pursuant to the Master Settlement Agreement shall be deposited into the state treasury subject to the special nonreverting funds established by subsection B and by §§ 3.2-3104 and 32.1-360.

B. There is created in the state treasury a special nonreverting fund to be known as the Tobacco Indemnification and Community Revitalization Fund. The Fund shall be established on the books of the Comptroller. Subject to the sale of all or any portion of the Commission Allocation, 50 percent of the annual amount received by the Commonwealth from the Master Settlement Agreement shall be paid into the state treasury and credited to the Fund. In the event of such sale: (i) the Commission Allocation shall be paid in accordance with the agreement for the period of sale; and (ii) the Fund shall receive the amounts withdrawn from the Endowment in accordance with § 3.2-3104. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes described in this chapter. Starting with the fiscal year beginning July 1, 2000, through December 31, 2009, the Commission may deposit moneys from the Fund into the Technology Initiative in Tobacco-Dependent Localities Fund, established under § 58.1-439.15, for purposes of funding the tax credits provided in §§ 58.1-439.13 and 58.1-439.14 and the grants provided in § 58.1-439.17. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written authorization signed by the chairman of the Commission or his designee. The Fund shall also consist of other moneys received by the Commission, from any source, for the purpose of implementing the provisions of this chapter.

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

§ 3.2-4203. Withdrawal of escrow funds assigned and contributed to the Commonwealth.

Notwithstanding the provisions of subsection B of § 3.2-4201, any escrow funds assigned and contributed to the Commonwealth pursuant to § 3.2-4202, less the aggregate limitation for incentive payments to all small tobacco product manufacturers for the relevant year due from the escrow funds pursuant to § 58.1-439.15:01, shall be withdrawn by the Commonwealth by request of the State Treasurer to the Attorney General and upon approval of the Attorney General. The State Treasurer shall make such request as soon as practicable and such escrow funds withdrawn shall be deposited into the Virginia Health Care Fund established under § 32.1-366.

After such withdrawal, and after the actual incentive payments pursuant to § 58.1-439.15:01 have been made from the escrow funds in the escrow account, any remaining escrow funds shall be withdrawn under the withdrawal procedures provided in this section, and the withdrawn escrow funds shall be deposited into the Virginia Health Care Fund. Nothing in this article shall be construed to relieve a tobacco product manufacturer from any past, current, or future obligations it may have pursuant to Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of this chapter.

§ 36-139. Powers and duties of Director.

59 The Director of the Department of Housing and Community Development shall have the following
60 responsibilities:

61 1. Collecting from the governmental subdivisions of the Commonwealth information relevant to their
62 planning and development activities, boundary changes, changes of forms and status of government,
63 intergovernmental agreements and arrangements, and such other information as he may deem necessary.

64 2. Making information available to communities, planning district commissions, service districts and
65 governmental subdivisions of the Commonwealth.

66 3. Providing professional and technical assistance to, and cooperating with, any planning agency,
67 planning district commission, service district, and governmental subdivision engaged in the preparation
68 of development plans and programs, service district plans, or consolidation agreements.

69 4. Assisting the Governor in the providing of such state financial aid as may be appropriated by the
70 General Assembly in accordance with § 15.2-4216.

71 5. Administering federal grant assistance programs, including funds from the Appalachian Regional
72 Commission, the Economic Development Administration and other such federal agencies, directed at
73 promoting the development of the Commonwealth's communities and regions.

74 6. Developing state community development policies, goals, plans and programs for the consideration
75 and adoption of the Board with the ultimate authority for adoption to rest with the Governor and the
76 General Assembly.

77 7. Developing a Consolidated Plan to guide the development and implementation of housing
78 programs and community development in the Commonwealth for the purpose of meeting the housing
79 and community development needs of the Commonwealth and, in particular, those of low-income and
80 moderate-income persons, families and communities.

81 8. Determining present and future housing requirements of the Commonwealth on an annual basis
82 and revising the Consolidated Plan, as necessary to coordinate the elements of housing production to
83 ensure the availability of housing where and when needed.

84 9. Assuming administrative coordination of the various state housing programs and cooperating with
85 the various state agencies in their programs as they relate to housing.

86 10. Establishing public information and educational programs relating to housing; devising and
87 administering programs to inform all citizens about housing and housing-related programs that are
88 available on all levels of government; designing and administering educational programs to prepare
89 families for home ownership and counseling them during their first years as homeowners; and promoting
90 educational programs to assist sponsors in the development of low and moderate income housing as well
91 as programs to lessen the problems of rental housing management.

92 11. Administering the provisions of the Industrialized Building Safety Law (§ 36-70 et seq.).

93 12. Administering the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).

94 13. Establishing and operating a Building Code Academy for the training of persons in the content,
95 application, and intent of specified subject areas of the building and fire prevention regulations
96 promulgated by the Board of Housing and Community Development.

97 14. Administering, in conjunction with the federal government, and promulgating any necessary
98 regulations regarding energy standards for existing buildings as may be required pursuant to federal law.

99 15. Identifying and disseminating information to local governments about the availability and
100 utilization of federal and state resources.

101 16. Administering, with the cooperation of the Department of Health, state assistance programs for
102 public water supply systems.

103 17. Advising the Board on matters relating to policies and programs of the Virginia Housing Trust
104 Fund.

105 18. Designing and establishing program guidelines to meet the purposes of the Virginia Housing
106 Trust Fund and to carry out the policies and procedures established by the Board.

107 19. Preparing agreements and documents for loans and grants to be made from the Virginia Housing
108 Trust Fund; soliciting, receiving, reviewing and selecting the applications for which loans and grants are
109 to be made from such fund; directing the Virginia Housing Development Authority and the Department
110 as to the closing and disbursing of such loans and grants and as to the servicing and collection of such
111 loans; directing the Department as to the regulation and monitoring of the ownership, occupancy and
112 operation of the housing developments and residential housing financed or assisted by such loans and
113 grants; and providing direction and guidance to the Virginia Housing Development Authority as to the
114 investment of moneys in such fund.

115 ~~20. Advising the Board on matters relating to policies for the low-income housing credit and~~
116 ~~administering the approval of low-income housing credits as provided in § 36-55.63.~~

117 ~~21. Establishing and administering program guidelines for a statewide homeless intervention program.~~

118 ~~22.~~ 21. Administering 15 percent of the Low Income Home Energy Assistance Program (LIHEAP)
119 Block Grant and any contingency funds awarded and carry over funds, furnishing home weatherization
120 and associated services to low-income households within the Commonwealth in accordance with

121 applicable federal law and regulations.

122 ~~23.~~ 22. Developing a strategy concerning the expansion of affordable, accessible housing for older
123 Virginians and Virginians with disabilities, including supportive services.

124 ~~24.~~ 23. Serving as the Executive Director of the Commission on Local Government as prescribed in
125 § 15.2-2901 and perform all other duties of that position as prescribed by law.

126 ~~25.~~ 24. Developing a strategy, in consultation with the Virginia Housing Development Authority, for
127 the creation and implementation of housing programs and community development for the purpose of
128 meeting the housing needs of persons who have been released from federal, state, and local correctional
129 facilities into communities.

130 ~~26.~~ 25. Administering the Private Activity Bonds program in Chapter 50 (§ 15.2-5000 et seq.) of
131 Title 15.2 jointly with the Virginia Small Business Financing Authority and the Virginia Housing
132 Development Authority.

133 ~~27.~~ 26. Carrying out such other duties as may be necessary and convenient to the exercise of powers
134 granted to the Department.

135 **§ 45.1-361.5. Exclusivity of regulation and enforcement.**

136 No county, city, town or other political subdivision of the Commonwealth shall impose any
137 condition, or require any other local license, permit, fee or bond to perform any gas, oil, or geophysical
138 operations which varies from or is in addition to the requirements of this chapter. However, no provision
139 of this chapter shall be construed to limit or supersede the jurisdiction and requirements of other state
140 agencies, local land-use ordinances, regulations of general purpose, or §§ 58.1-3712, ~~58.1-3712.1,~~
141 ~~58.1-3713, 58.1-3713.3, 58.1-3741, 58.1-3742, and 58.1-3743.~~

142 **§ 45.1-361.38. Report of permitted activities and production required; contents.**

143 A. Each holder of a permit for gas or oil wells or gathering pipelines shall file monthly and annual
144 reports of his activities as prescribed by the Director. These reports shall be for the purpose of obtaining
145 information regarding the production and sale of gas and oil resources, as well as information
146 concerning the ownership and control of permitted activities. Filing of these reports by a permittee shall
147 be a condition of such permit. Every annual report filed by a permittee shall contain a certification that
148 such permittee has paid all severance taxes levied under the provisions of §§ 58.1-3712, ~~58.1-3712.1,~~
149 ~~58.1-3713, and 58.1-3741.~~

150 B. At the same time that a permittee files the monthly and annual reports as required by subsection
151 A, the permittee shall send copies of the reports by mail to the commissioner of revenue of the political
152 subdivision where the permitted wells are located.

153 **§ 58.1-439.12:04. Tax credit for participating landlords.**

154 A. As used in this section, unless the context clearly shows otherwise, the term or phrase:

155 "Dwelling unit" means an individual housing unit in an apartment building, an individual housing
156 unit in multifamily residential housing, a single-family residence, or any similar individual housing unit.

157 "Eligible housing area" means a census tract in the Richmond Metropolitan Statistical area in which
158 less than 10 percent of the residents live below the poverty level, as defined by the United States
159 government and determined by the most recent United States census.

160 "Housing authority" means a housing authority created under Article 1 (§ 36-1 et seq.) of Chapter 1
161 of Title 36 of this Code or other government agency that is authorized by the United States government
162 under the United States Housing Act of 1937 (42 U.S.C. § 1437 et seq.) to administer a housing choice
163 voucher program, or the authorized agent of such a housing authority that is authorized to act upon that
164 authority's behalf. The term shall also include the Virginia Housing Development Authority.

165 "Housing choice voucher" means tenant-based assistance by a housing authority pursuant to 42
166 U.S.C. § 1437f et seq.

167 "Participating landlord" means any person engaged in the business of the rental of dwelling units
168 who is (i) subject to the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.) and (ii)
169 performing obligations under a contract with a housing authority relating to the rental of qualified
170 housing units.

171 "Qualified housing unit" means a dwelling unit that is located in an eligible housing area for which a
172 portion of the rent is paid by a housing authority, which payment is pursuant to a housing choice
173 voucher program.

174 B. For taxable years beginning on or after January 1, 2010, a participating landlord renting a
175 qualified housing unit shall be eligible for a credit against the tax levied pursuant to § 58.1-320 or
176 58.1-400 in an amount equal to 10 percent of the fair market value of the rent for the unit, computed
177 for that portion of the taxable year in which the unit was rented by such landlord to a tenant
178 participating in a housing choice voucher program. The Department of Housing and Community
179 Development shall administer and issue the tax credit under this section. If (i) the same parcel of real
180 property contains four or more dwelling units and (ii) the total number of qualified housing units on the
181 parcel in the relevant taxable year exceeds 25 percent of the total dwelling units on the parcel, then the

182 tax credit under this section shall apply only to a limited number of qualified housing units with regard
 183 to such parcel of real property, with the limited number being equal to 25 percent of the total dwelling
 184 units on such parcel of real property in the taxable year.

185 C. The Department of Housing and Community Development shall issue tax credits under this
 186 section on a fiscal year basis. The maximum amount of tax credits that may be issued under this section
 187 in each fiscal year shall be \$250,000.

188 D. Participating landlords shall apply to the Department of Housing and Community Development
 189 for tax credits under this section. The Department of Housing and Community Development shall
 190 determine the credit amount allowable to the participating landlord for the taxable year and shall also
 191 determine the fair market value of the rent for the qualified housing unit based on the fair market rent
 192 approved by the United States Department of Housing and Urban Development as the basis for the
 193 tenant-based assistance provided through the housing choice voucher program for the qualified housing
 194 unit. In issuing tax credits under this section, the Department of Housing and Community Development
 195 shall provide a written certification to the participating landlord, which certification shall report the
 196 amount of the tax credit approved by the Department. The participating landlord shall attach the
 197 certification to the applicable income tax return.

198 E. The Board of Housing and Community Development shall establish and issue guidelines for
 199 purposes of implementing the provisions of this section. The guidelines shall provide for the allocation
 200 of tax credits among participating landlords requesting credits. The guidelines shall be exempt from the
 201 Administrative Process Act (§ 2.2-4000 et seq.).

202 F. In no case shall the amount of credit taken by a participating landlord for any taxable year exceed
 203 the total amount of tax imposed by this chapter for the taxable year. If the amount of credit issued by
 204 the Department of Housing and Community Development for a taxable year exceeds the landlord's tax
 205 liability imposed by this chapter for such taxable year, then the amount that exceeds the tax liability
 206 may be carried over for credit against the income taxes of the participating landlord in the next five
 207 taxable years or until the total amount of the tax credit issued has been taken, whichever is sooner.
 208 Credits granted to a partnership, limited liability company, or electing small business corporation (S
 209 corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in
 210 proportion to their ownership or interest in such business entities.

211 G. ~~No person shall be allowed a tax credit under § 58.1-339.9 and this section for the rental of the~~
 212 ~~same dwelling unit in a taxable year.~~

213 ~~H. In the event that the amount of the qualified requests for tax credits for participating landlords in~~
 214 ~~the fiscal year exceeds \$250,000, the Department of Housing and Community Development shall pro~~
 215 ~~rate the tax credits among the qualified applicants.~~

216 Article 13.1.

217 Tax Credits for Technology Industries Grants for Investment and Research and Development in 218 Tobacco-Dependent Localities.

219 § 58.1-439.17. Grants in lieu of or in addition to tax credits.

220 ~~Notwithstanding any provision of this article, the~~ The Tobacco Region Revitalization Commission
 221 ~~created under § 3.2-3101~~ may establish a grant program for purposes of encouraging qualified
 222 investments and eligible research and development activities in tobacco-dependent localities. If the
 223 Commission elects to establish such a program, the program ~~may replace or~~ may be in addition to the
 224 ~~tax credits established under this article~~ *credit programs allowed under former §§ 58.1-439.13 and*
 225 *58.1-439.14.* The criteria for ~~taxpayers~~ to receive grants shall be the same as the criteria for ~~taxpayers to~~
 226 ~~be allowed the tax credits allowed under former §§ 58.1-439.13 and 58.1-439.14 as they were in effect~~
 227 *on December 31, 2009.* In any case where a grant is awarded to a ~~taxpayer~~ for any investment under §
 228 ~~58.1-439.13~~ or for eligible research and development activity under § ~~58.1-439.14~~, ~~such taxpayer the~~
 229 *person receiving the grant* may not use such investment or research and development activity as the
 230 basis for claiming any credit provided under the Code of Virginia.

231 § 58.1-603.1. (Contingent expiration date) Additional state sales tax in certain counties and 232 cities.

233 A. In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in
 234 each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et
 235 seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more as shown by
 236 the most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and
 237 has a total transit ridership of not less than 15 million riders per year across all transit systems within
 238 the Planning District or (ii) as shown by the most recent United States Census meets the population
 239 criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in
 240 clause (i), a retail sales tax at the rate of 0.70 percent. In any case in which the tax is imposed pursuant
 241 to clause (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year
 242 in which all of the criteria have been met. Such tax shall not be levied upon food purchased for human
 243 consumption as defined in § 58.1-611.1. Such tax shall be added to the rate of the state sales tax

244 imposed pursuant to § 58.1-603 in each such county and city and shall be subject to all the provisions of
 245 this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622
 246 shall be allowed for the tax imposed under this section. Such tax shall be administered and collected by
 247 the Tax Commissioner in the same manner and subject to the same penalties as provided for the state
 248 sales tax under § 58.1-603.

249 The revenue generated and collected pursuant to the tax authorized under this section, less the
 250 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds
 251 established by law. In the case of Planning District 8, the revenue generated and collected therein shall
 252 be deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue
 253 generated and collected therein shall be deposited into the fund established in § 33.2-2600. For
 254 additional Planning Districts that may become subject to this section, funds shall be established by
 255 appropriate legislation.

256 ~~B. The transitional provisions of § 58.1-639 shall apply, mutatis mutandis, to the taxes imposed~~
 257 ~~pursuant to this section.~~

258 **§ 58.1-604.01. (Contingent expiration date) Additional state use tax in certain counties and**
 259 **cities.**

260 ~~A.~~ In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and imposed in
 261 each county and city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et
 262 seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of 1.5 million or more, as
 263 shown by the most recent United States Census, has not less than 1.2 million motor vehicles registered
 264 therein, and has a total transit ridership of not less than 15 million riders per year across all transit
 265 systems within the Planning District or (ii) as shown by the most recent United States Census meets the
 266 population criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set
 267 forth in clause (i), a retail use tax at the rate of 0.70 percent. In any case in which the tax is imposed
 268 pursuant to clause (ii) such tax shall be effective beginning on the July 1 immediately following the
 269 calendar year in which all of the criteria have been met. Such tax shall not be levied upon food
 270 purchased for human consumption as defined in § 58.1-611.1. Such tax shall be added to the rate of the
 271 state use tax imposed pursuant to § 58.1-604 in such county and city and shall be subject to all the
 272 provisions of this chapter and the rules and regulations published with respect thereto. No discount
 273 under § 58.1-622 shall be allowed for the tax described under this section. Such tax shall be
 274 administered and collected by the Tax Commissioner in the same manner and subject to the same
 275 penalties as provided for the state use tax under § 58.1-604.

276 The revenue generated and collected pursuant to the tax authorized under this section, less the
 277 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller into special funds
 278 established by law. In the case of Planning District 8, the revenue generated and collected therein shall
 279 be deposited into the fund established in § 33.2-2509. In the case of Planning District 23, the revenue
 280 generated and collected therein shall be deposited into the fund established in § 33.2-2600. For any
 281 additional Planning Districts that may become subject to this section, funds shall be established by
 282 appropriate legislation.

283 ~~B. The transitional provisions of § 58.1-639 shall apply, mutatis mutandis, to the taxes imposed~~
 284 ~~pursuant to this section.~~

285 **§ 58.1-3706. Limitation on rate of license taxes.**

286 A. Except as specifically provided in this section and except for the fee authorized in § 58.1-3703,
 287 no local license tax imposed pursuant to the provisions of this chapter, except §§ 58.1-3712, ~~58.1-3712.1~~
 288 and 58.1-3713, or any other provision of this title or any charter, shall be imposed on any person whose
 289 gross receipts from a business, profession or occupation subject to licensure are less than: (i) \$100,000
 290 in any locality with a population greater than 50,000; or (ii) \$50,000 in any locality with a population of
 291 25,000 but no more than 50,000. Any business with gross receipts of more than \$100,000, or \$50,000,
 292 as applicable, may be subject to the tax at a rate not to exceed the rate set forth below for the class of
 293 enterprise listed:

- 294 1. For contracting, and persons constructing for their own account for sale, sixteen cents per \$100 of
 295 gross receipts;
- 296 2. For retail sales, twenty cents per \$100 of gross receipts;
- 297 3. For financial, real estate and professional services, fifty-eight cents per \$100 of gross receipts; and
- 298 4. For repair, personal and business services, and all other businesses and occupations not specifically
 299 listed or excepted in this section, thirty-six cents per \$100 of gross receipts.

300 The rate limitations prescribed in this section shall not be applicable to license taxes on (i)
 301 wholesalers, which shall be governed by § 58.1-3716; (ii) public service companies, which shall be
 302 governed by § 58.1-3731; (iii) carnivals, circuses and speedways, which shall be governed by §
 303 58.1-3728; (iv) fortune-tellers, which shall be governed by § 58.1-3726; (v) massage parlors; (vi)
 304 itinerant merchants or peddlers, which shall be governed by § 58.1-3717; (vii) permanent coliseums,

305 arenas, or auditoriums having a maximum capacity in excess of 10,000 persons and open to the public,
306 which shall be governed by § 58.1-3729; (viii) savings institutions and credit unions, which shall be
307 governed by § 58.1-3730; (ix) photographers, which shall be governed by § 58.1-3727; and (x) direct
308 sellers, which shall be governed by § 58.1-3719.1.

309 B. Any county, city or town which had, on January 1, 1978, a license tax rate, for any of the
310 categories listed in subsection A, higher than the maximum prescribed in subsection A may maintain a
311 higher rate in such category, but no higher than the rate applicable on January 1, 1978, subject to the
312 following conditions:

313 1. A locality may not increase a rate on any category which is at or above the maximum prescribed
314 for such category in subsection A.

315 2. If a locality increases the rate on a category which is below the maximum, it shall apply all
316 revenue generated by such increase to reduce the rate on a category or categories which are above such
317 maximum.

318 3. A locality shall lower rates on categories which are above the maximums prescribed in subsection
319 A for any tax year after 1982 if it receives more revenue in tax year 1981, or any tax year thereafter,
320 than the revenue base for such year. The revenue base for tax year 1981 shall be the amount of revenue
321 received from all categories in tax year 1980, plus one-third of the amount, if any, by which such
322 revenue received in tax year 1981 exceeds the revenue received for tax year 1980. The revenue base for
323 each tax year after 1981 shall be the revenue base of the preceding tax year plus one-third of the
324 increase in the revenues of the subsequent tax year over the revenue base of the preceding tax year. If
325 in any tax year the amount of revenues received from all categories exceeds the revenue base for such
326 year, the rates shall be adjusted as follows: The revenues of those categories with rates at or below the
327 maximum shall be subtracted from the revenue base for such year. The resulting amount shall be
328 allocated to the category or categories with rates above the maximum in a manner determined by the
329 locality, and divided by the gross receipts of such category for the tax year. The resulting rate or rates
330 shall be applicable to such category or categories for the second tax year following the year whose
331 revenue was used to make the calculation.

332 C. Any person engaged in the short-term rental business as defined in § 58.1-3510.4 shall be
333 classified in the category of retail sales for license tax rate purposes.

334 D. 1. Any person, firm, or corporation designated as the principal or prime contractor receiving
335 identifiable federal appropriations for research and development services as defined in § 31.205-18 (a) of
336 the Federal Acquisition Regulation in the areas of (i) computer and electronic systems, (ii) computer
337 software, (iii) applied sciences, (iv) economic and social sciences, and (v) electronic and physical
338 sciences shall be subject to a license tax rate not to exceed three cents per \$100 of such federal funds
339 received in payment of such contracts upon documentation provided by such person, firm or corporation
340 to the local commissioner of revenue or finance officer confirming the applicability of this subsection.

341 2. Any gross receipts properly reported to a Virginia locality, classified for license tax purposes by
342 that locality in accordance with subdivision 1 of this subsection, and on which a license tax is due and
343 paid, or which gross receipts defined by subdivision 1 of this subsection are properly reported to but
344 exempted by a Virginia locality from taxation, shall not be subject to local license taxation by any other
345 locality in the Commonwealth.

346 3. Notwithstanding the provisions of subdivision D 1, in any county operating under the county
347 manager plan of government, the following shall govern the taxation of the licensees described in
348 subdivision D 1. Persons, firms, or corporations designated as the principal or prime contractors
349 receiving identifiable federal appropriations for research and development services as defined in
350 § 31.205-18 (a) of the Federal Acquisition Regulation in the areas of (i) computer and electronic
351 systems, (ii) computer software, (iii) applied sciences, (iv) economic and social sciences, and (v)
352 electronic and physical sciences may be separately classified by any such county and subject to tax at a
353 license tax rate not to exceed the limits set forth in subsections A through C above as to such federal
354 funds received in payment of such contracts upon documentation provided by such persons, firms, or
355 corporations to the local commissioner of revenue or finance officer confirming the applicability of this
356 subsection.

357 E. In any case in which the Department of Mines, Minerals and Energy determines that the weekly
358 U.S. Retail Gasoline price (regular grade) for PADD 1C (Petroleum Administration for Defense District
359 — Lower Atlantic Region) has increased by 20% or greater in any one-week period over the
360 immediately preceding one-week period and does not fall below the increased rate for at least 28
361 consecutive days immediately following the week of such increase, then, notwithstanding any tax rate on
362 retailers imposed by the local ordinance, the gross receipts taxes on fuel sales of a gas retailer made in
363 the following license year shall not exceed 110% of the gross receipts taxes on fuel sales made by such
364 retailer in the license year of such increase. For license years beginning on or after January 1, 2006,
365 every gas retailer shall maintain separate records for fuel sales and nonfuel sales and shall make such
366 records available upon request by the local tax official.

367 The provisions of this subsection shall not apply to any person or entity (i) not conducting business
 368 as a gas retailer in the county, city, or town for the entire license year immediately preceding the license
 369 year of such increase or (ii) that was subject to a license fee in the county, city, or town pursuant to
 370 § 58.1-3703 for the license year immediately preceding the license year of such increase.

371 The Department of Mines, Minerals and Energy shall determine annually if such increase has
 372 occurred and remained in effect for such 28-day period.

373 **§ 58.1-3713.3. Validation of local coal and gas severance tax ordinances and local coal and gas**
 374 **road improvement tax ordinances.**

375 A. All ordinances adopted pursuant to §§ 58.1-3712 and 58.1-3713 prior to October 1, 1989, shall be
 376 valid as if they had been enacted as of January 1, 1985, as long as similar ordinances had been validly
 377 enacted under the predecessor provisions to §§ 58.1-3712 and 58.1-3713 and in substantial compliance
 378 therewith. Any such local tax ordinances are declared to be validly adopted and enacted as of January 1,
 379 1985, notwithstanding the failure of the locality to change the reference in the local tax ordinance after
 380 the enactment of this title, effective January 1, 1985.

381 B. All ordinances adopted pursuant to §§ 58.1-3712, 58.1-3713, and 58.1-3713.4 prior to January 1,
 382 2001, shall be valid and presumed to include all the provisions of §§ 58.1-3712, 58.1-3713, and
 383 58.1-3713.4 as long as such ordinances were in substantial compliance therewith at the time of their
 384 adoption.

385 C. 1. Any locality that imposed the tax under § 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, or 58.1-3713.4
 386 for the 2008, 2009, 2010, or 2011 license year for coal, gas, or oil severed from the earth prior to July
 387 1, 2013, shall (if it has not already done so by the effective date of this subsection) amend its local
 388 ordinance with regard to such taxes to adopt or include the uniform ordinance provisions of
 389 § 58.1-3703.1, with the exception of subdivisions A 1 and A 3 of such section, in the local ordinance
 390 with an effective date retroactive to the 2008 license year. As of the effective date of this subsection,
 391 each such locality shall allow all persons assessed with such taxes for the 2008 license year or any
 392 license year thereafter to exercise all rights and remedies under § 58.1-3703.1, provided that
 393 subdivisions A 1 and A 3 of such section shall be inapplicable for purposes of the imposition,
 394 collection, or appeal of such taxes. Such rights and remedies shall include, but shall not be limited to,
 395 the appeal procedures set forth under subdivisions A 5, A 6, and A 7 of § 58.1-3703.1. In addition,
 396 each such locality, upon the provisions of this subsection becoming effective, shall within 60 days
 397 thereof provide written notice to all persons upon whom the locality imposed one or more of the taxes
 398 under § 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, or 58.1-3713.4 for license year 2008, 2009, 2010, or 2011
 399 for coal, gas, or oil severed from the earth prior to July 1, 2013, informing the person that the locality
 400 has adopted or will adopt the uniform ordinance provisions of § 58.1-3703.1 with regard to such taxes,
 401 excluding subdivisions A 1 and A 3 of such section, retroactive to the 2008 license year and for each
 402 license year thereafter.

403 2. Any locality described in subdivision 1 that amends its local ordinance with regard to such taxes,
 404 or has amended the same prior to the effective date of this subsection, to expressly include, incorporate
 405 by reference, or adopt by incorporation the uniform ordinance provisions of § 58.1-3703.1 shall have
 406 met the requirement under subdivision 1 to amend its local ordinance with regard to such taxes,
 407 provided that the locality on or after the effective date of this subsection further amends its local
 408 ordinance to make such inclusion, incorporation by reference, or adoption by incorporation retroactive to
 409 the 2008 license year. Nothing in this subdivision shall relieve the locality from (i) the notice
 410 requirements under subdivision 1 or (ii) the requirement under subdivision 1 to allow all persons
 411 assessed with such taxes for the 2008 license year or any license year thereafter to exercise all rights
 412 and remedies under § 58.1-3703.1 except that subdivisions A 1 and A 3 of such section shall be
 413 inapplicable for purposes of the imposition, collection, or appeal of such taxes.

414 3. Each locality amending its ordinance pursuant to subdivision 1 or 2 shall amend its ordinance in
 415 accordance with the respective subdivision within 90 days of the effective date of this subsection.

416 4. Each local ordinance amended as provided under this subsection shall be deemed valid and
 417 properly enacted for purposes of any tax imposed pursuant to § 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, or
 418 58.1-3713.4 for license year 2008, 2009, 2010, 2011, or 2012 for coal, gas, or oil severed from the earth
 419 prior to July 1, 2013. Further, each such ordinance shall be deemed to have met the requirement of
 420 subsection A of § 58.1-3703.1 to include in the local ordinance provisions substantially similar to those
 421 set forth under such subsection.

422 5. a. Notwithstanding any other provision of law, any person assessed with a license tax under
 423 § 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, or 58.1-3713.4 for license year 2008, 2009, 2010, 2011, 2012, or
 424 2013 for coal, gas, or oil severed from the earth prior to July 1, 2013, shall be allowed to file an
 425 administrative appeal of the same under § 58.1-3703.1 to the commissioner of the revenue or other local
 426 assessing official only during the period beginning July 1, 2013, and ending July 1, 2014. Such person
 427 shall be allowed to file the administrative appeal regardless of whether an appealable event, as defined

428 in § 58.1-3703.1, occurs on or after the effective date of this subsection. Such appeal to the
429 commissioner of the revenue or other local assessing official may be further appealed to the Tax
430 Commissioner pursuant to subdivision A 6 of § 58.1-3703.1 and to the appropriate circuit court pursuant
431 to subdivision A 7 of § 58.1-3703.1, in accordance with the procedures and time frames for the appeal
432 as provided under the respective subdivision.

433 If a locality, however, makes an additional assessment of tax on or after January 1, 2014, for license
434 year 2013, 2012, or 2011 for coal, gas, or oil severed from the earth prior to July 1, 2013, then such
435 additional assessment may be appealed within the time frame provided under § 58.1-3703.1
436 notwithstanding the provisions of this subdivision.

437 b. Notwithstanding any other provision of law, any person assessed with a license tax under
438 § 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, or 58.1-3713.4 for license year 2008, 2009, 2010, 2011, 2012, or
439 2013 for coal, gas, or oil severed from the earth prior to July 1, 2013, who elects not to file an appeal
440 of the same pursuant to § 58.1-3703.1 may apply for relief of the same pursuant to § 58.1-3980 or
441 58.1-3984 only during the period beginning July 1, 2013, and ending July 1, 2014. If such person elects
442 not to file an appeal of such license tax pursuant to § 58.1-3703.1 but applies for relief of the same
443 pursuant to § 58.1-3980 or 58.1-3984, then the period for collecting any such license tax shall expire as
444 provided in § 58.1-3940, two years after a final determination pursuant to § 58.1-3981, or two years
445 after the final decision in a court application pursuant to § 58.1-3984, whichever is later.

446 If a locality, however, makes an additional assessment of tax on or after January 1, 2014, for license
447 year 2013, 2012, or 2011 for coal, gas, or oil severed from the earth prior to July 1, 2013, then such
448 person so assessed may apply for relief of such assessment pursuant to § 58.1-3980 or 58.1-3984 within
449 the time frame provided under the applicable section notwithstanding the provisions of this subdivision,
450 and the period for collecting any such additional assessment shall be as provided under Title 58.1 or
451 other controlling law notwithstanding the provisions of this subdivision.

452 c. Notwithstanding the provisions of § 58.1-3940, the period for collecting any license tax imposed
453 under § 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, or 58.1-3713.4 for license years 2008 and 2009 for coal,
454 gas, or oil severed from the earth prior to July 1, 2013, shall expire on January 1, 2016, unless a longer
455 period is provided under law.

456 d. Notwithstanding any other provision of law, collection activity shall be suspended on the
457 assessment of additional license tax for license year 2008, 2009, 2010, or 2011 for coal, gas, or oil
458 severed from the earth prior to July 1, 2013, pursuant to § 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, or
459 58.1-3713.4. In addition, collection activity shall be suspended on the assessment of additional license
460 tax for license year 2012 or 2013 for such taxes on coal, gas, or oil severed from the earth prior to July
461 1, 2013, provided that, in filing severance tax returns for the severance of coal, gases, or oil from the
462 earth in the locality in license year 2012 and 2013, the person filing the return includes with the return a
463 good faith payment of the tax due or a good faith report of the tax due. The good faith payment or
464 report of tax due shall be in accordance with the methodology used by that person as of January 1,
465 2010, to report the person's gross receipts to the locality for purposes of such taxes unless such person
466 and the locality have entered into a contract or agreement on an alternate methodology to report the
467 person's gross receipts. As used in this subsection, "additional license tax" means all amounts of license
468 tax, penalty, and interest that are in addition to the amount of license tax paid by a person or reported
469 by a person as due in filing severance tax returns for the severance of coal, gases, or oil from the earth
470 in the locality. Collection activity shall not be required to be suspended if collection of any tax, interest,
471 or penalty is jeopardized by delay as defined in § 58.1-3703.1. However, nothing herein shall be
472 construed or interpreted as to require the suspension of collection activity for any amount of unpaid
473 license tax (and any interest and penalty related thereto) reported by a person as due in filing a
474 severance tax return for the severance of coal, gas, or oil from the earth.

475 Collection activity on additional license tax for license year 2008, 2009, 2010, or 2011 for coal, gas,
476 or oil severed from the earth prior to July 1, 2013, may commence on July 1, 2013, unless other law
477 requires the suspension of collection activity. Collection activity on additional license tax for license
478 year 2012 or 2013 for coal, gas, or oil severed from the earth prior to July 1, 2013, if suspended
479 pursuant to this subdivision, may commence on or after July 1, 2013, unless other law requires the
480 suspension of collection activity.

481 6. Except as otherwise provided in subdivision 5, nothing in this subsection shall be construed or
482 interpreted as extending or decreasing any limitations period for appealing any of the taxes imposed
483 under § 58.1-3712, ~~58.1-3712.1~~, 58.1-3713, or 58.1-3713.4 for coal, gas, or oil severed from the earth
484 prior to July 1, 2013, or extending any period for the collection of such taxes.

485 **§ 58.1-3823. Additional transient occupancy tax for certain counties.**

486 A. In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through
487 ~~58.1-3822~~ 58.1-3821, Hanover County, Chesterfield County and Henrico County may impose:

488 1. An additional transient occupancy tax not to exceed four percent of the amount of the charge for
489 the occupancy of any room or space occupied. The tax imposed hereunder shall not apply to rooms or

spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days. The revenues collected from the additional tax shall be designated and spent for promoting tourism, travel or business that generates tourism or travel in the Richmond metropolitan area; and

2. An additional transient occupancy tax not to exceed two percent of the amount of the charge for the occupancy of any room or space occupied. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days. The revenues collected from the additional tax shall be designated and spent for expanding the Richmond Centre, a convention and exhibition facility in the City of Richmond.

3. An additional transient occupancy tax not to exceed one percent of the amount of the charge for the occupancy of any room or space occupied. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or group of individuals for 30 or more days. The revenues collected from the additional tax shall be designated and spent for the development and improvement of the Virginia Performing Arts Foundation's facilities in Richmond, for promoting the use of the Richmond Centre and for promoting tourism, travel or business that generates tourism and travel in the Richmond metropolitan area.

B. In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through ~~58.1-3822~~ 58.1-3821, any county with the county manager plan of government may impose an additional transient occupancy tax not to exceed two percent of the amount of the charge for the occupancy of any room or space occupied, provided the county's governing body approves the construction of a county conference center. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days. The revenues collected from the additional tax shall be designated and spent for the design, construction, debt payment, and operation of such conference center.

C. 1. In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through ~~58.1-3822~~ 58.1-3821, the Counties of James City and York may impose an additional transient occupancy tax not to exceed \$2 per room per night for the occupancy of any overnight guest room. The revenues collected from the additional tax shall be designated and expended solely for advertising the Historic Triangle area, which includes all of the City of Williamsburg and the Counties of James City and York, as an overnight tourism destination by the members of the Williamsburg Area Destination Marketing Committee of the Greater Williamsburg Chamber and Tourism Alliance. The tax imposed by this subsection shall not apply to travel campground sites or to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days.

2. The Williamsburg Area Destination Marketing Committee shall consist of the members as provided herein. The governing bodies of the City of Williamsburg, the County of James City, and the County of York shall each designate one of their members to serve as members of the Williamsburg Area Destination Marketing Committee. These three members of the Committee shall have two votes apiece. In no case shall a person who is a member of the Committee by virtue of the designation of a local governing body be eligible to be selected a member of the Committee pursuant to subdivision a.

a. Further, one member of the Committee shall be selected by the Board of Directors of the Williamsburg Hotel and Motel Association; one member of the Committee shall be from The Colonial Williamsburg Foundation and shall be selected by the Foundation; one member of the Committee shall be an employee of Busch Gardens Europe/Water Country USA and shall be selected by Busch Gardens Europe/Water Country USA; one member of the Committee shall be from the Jamestown-Yorktown Foundation and shall be selected by the Foundation; one member of the Committee shall be selected by the Executive Committee of the Greater Williamsburg Chamber and Tourism Alliance; and one member of the Committee shall be the President and Chief Executive Officer of the Virginia Tourism Authority who shall serve ex officio. Each of these six members of the Committee shall have one vote apiece. The President of the Greater Williamsburg Chamber and Tourism Alliance shall serve ex officio with nonvoting privileges unless chosen by the Executive Committee of the Greater Williamsburg Chamber and Tourism Alliance to serve as its voting representative. The Executive Director of the Williamsburg Hotel and Motel Association shall serve ex officio with nonvoting privileges unless chosen by the Board of Directors of the Williamsburg Hotel and Motel Association to serve as its voting representative.

In no case shall more than one person of the same local government, including the governing body of the locality, serve as a member of the Committee at the same time.

If at any time a person who has been selected to the Committee by other than a local governing body becomes or is (a) a member of the local governing body of the City of Williamsburg, the County of James City, or the County of York, or (b) an employee of one of such local governments, the person shall be ineligible to serve as a member of the Committee while a member of the local governing body or an employee of one of such local governments. In such case, the body that selected the person to serve as a member of the Commission shall promptly select another person to serve as a member of the Committee.

551 3. The Williamsburg Area Destination Marketing Committee shall maintain all authorities granted by
552 this section. The Greater Williamsburg Chamber and Tourism Alliance shall serve as the fiscal agent for
553 the Williamsburg Area Destination Marketing Committee with specific responsibilities to be defined in a
554 contract between such two entities. The contract shall include provisions to reimburse the Greater
555 Williamsburg Chamber and Tourism Alliance for annual audits and any other agreed-upon expenditures.
556 The Williamsburg Area Destination Marketing Committee shall also contract with the Greater
557 Williamsburg Chamber and Tourism Alliance to provide administrative support services as the entities
558 shall mutually agree.

559 4. The provisions in subdivision 2 relating to the composition and voting powers of the Williamsburg
560 Area Destination Marketing Committee shall be a condition of the authority to impose the tax provided
561 herein.

562 For purposes of this subsection, "advertising the Historic Triangle area" as an overnight tourism
563 destination means advertising that is intended to attract visitors from a sufficient distance so as to
564 require an overnight stay of at least one night.

565 D. The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax levied under
566 this section, mutatis mutandis.

567 2. That Chapter 1.4 (§ 36-55.63) of Title 36, §§ 58.1-339.5, 58.1-339.9, 58.1-434, 58.1-435,
568 58.1-439.1, 58.1-439.11, 58.1-439.13, 58.1-439.14, 58.1-439.15, 58.1-439.15:01, 58.1-439.16, and
569 58.1-639, Article 3 (§ 58.1-1840.1) of Chapter 18 and Article 10 (§ 58.1-2290.1) of Chapter 22 of
570 Title 58.1, and §§ 58.1-3605.1, 58.1-3712.1, 58.1-3822, and 58.1-3825.1 of the Code of Virginia are
571 repealed.

572 3. That this act shall in no way alter or affect any (i) tax credit or tax benefit or other tax
573 attribute allowed or earned under any section repealed by this act or (ii) tax liability or obligation
574 pursuant to any such section.