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SENATE BILL NO. 942

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 8, 2018)

(Patron Prior to Substitute—Senator Norment)

A *BILL to amend and reenact §§ 58.1-611.1, 58.1-638, 58.1-3819, and 58.1-3823 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-603.2, relating to state sales and use tax; Historic Triangle.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-611.1, 58.1-638, 58.1-3819, and 58.1-3823 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-603.2 as follows:

§ 58.1-603.2. Additional state sales and use tax in certain counties and cities of historic significance; Historic Triangle Marketing Fund.

A. For purposes of this section, "Historic Triangle" means all of the City of Williamsburg and the Counties of James City and York.

B. In addition to the sales tax imposed pursuant to §§ 58.1-603 and 58.1-603.1, there is hereby levied and imposed in the Historic Triangle a retail sales tax at the rate of one percent. Such tax shall be added to the rate of the state sales tax imposed pursuant to §§ 58.1-603 and 58.1-603.1 in each such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax imposed under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax under § 58.1-603.

C. In addition to the use tax imposed pursuant to §§ 58.1-604 and 58.1-604.01, there is hereby levied and imposed in the Historic Triangle a retail use tax at the rate of one percent. Such tax shall be added to the rate of the state use tax imposed pursuant to §§ 58.1-604 and 58.1-604.01 in each such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax imposed under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state use tax under § 58.1-604.

D. The revenue generated and collected pursuant to the tax authorized under this section, less the applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller as follows:

1. Fifty percent of the revenues shall be deposited into the Historic Triangle Marketing Fund created pursuant to subsection E and used for the purposes set forth therein; and

2. Fifty percent of the revenues shall be deposited into a special fund hereby created on the books of the Comptroller under the name "Collections of Historic Triangle Sales Tax" and distributed to the locality in which the sales or use tax was collected. The revenues received by a locality pursuant to this subsection shall not be used to reduce the amount of other revenues appropriated by such locality to fund tourism or marketing in the locality or region below the amount provided in fiscal year 2018, excluding revenues generated by the \$2 per room per night transient occupancy tax in effect in the locality on January 1, 2018 pursuant to § 58.1-3823 that were designated for advertising the Historic Triangle area.

E. 1. There is hereby created in the state treasury a special nonreverting fund to be known as the Historic Triangle Marketing Fund, referred to in this section as "the Fund," to be managed and administered by the Tourism Council of the Greater Williamsburg Chamber and Tourism Alliance. The Fund shall be established on the books of the Comptroller. All revenues generated pursuant to this section shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of marketing, advertising, and promoting the Historic Triangle area as an overnight tourism destination, with the intent to attract visitors from a sufficient distance so as to require an overnight stay of at least one night, as set forth in this subsection. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Chief Executive Officer of the Virginia Tourism Authority.

2. The Tourism Council of the Greater Williamsburg Chamber and Tourism Alliance (the Council) shall consist of members as follows: one member of the James City County Board of Supervisors, one member of the York County Board of Supervisors; one member of the Williamsburg City Council, one representative of the Colonial Williamsburg Foundation, one representative of the Jamestown Yorktown

60 Foundation, one representative of Busch Gardens Williamsburg, one representative of Historic
61 Jamestowne, one representative of the Williamsburg Hotel Motel Association, and one representative of
62 the Williamsburg Restaurant Association. The Chief Executive Officer of the Virginia Tourism Alliance
63 and the Chief Executive Officer of the Virginia Tourism Corporation shall serve as ex officio, non-voting
64 members of the Council.

65 3. The Council shall establish the Historic Triangle Office of Marketing and Promotion (the Office)
66 to administer a program of marketing, advertising, and promotion to attract visitors to the Historic
67 Triangle area, as required by this subsection. The Council shall use moneys in the Fund to fund the pay
68 for necessary expenses of the Office and to fund the activities of the Office. The Office shall be overseen
69 by a professional with extensive experience in marketing or advertising and in the tourism industry. The
70 Office shall be responsible for (i) developing and implementing, in consultation with the Council,
71 long-term and short-term strategic plans for advertising and promoting the numerous facilities, venues,
72 and attractions devoted to education, historic preservation, amusement, entertainment, and dining in the
73 Historic Triangle as a cohesive and unified travel destination for local, national, and international
74 travelers; (ii) assisting, upon request, with the coordination of cross-advertising and cross-marketing
75 efforts between various tourism venues and destinations in the Historic Triangle region; (iii) identifying
76 strategies for both increasing the number of overnight visitors to the region and increasing the average
77 length of stay of tourists in the region; and (iv) performing any other function related to the promotion
78 of the Historic Triangle region as may be identified by the Council.

79 4. The Council shall report annually on its long-term and short-term strategic plans and the
80 implementation of such plans; marketing efforts; metrics regarding tourism in the Historic Triangle
81 region; use of the funds in the Fund; and any other details relevant to the work of the Council and the
82 Office. Such report shall be delivered no later than December 1 of each year to the managers or chief
83 executive officers of the City of Williamsburg and the Counties of James City and York, and to the
84 chairmen of the House Committees on Finance and Appropriations and the Senate Committees on
85 Finance.

86 **§ 58.1-611.1. Rate of tax on sales of food purchased for human consumption.**

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

89 1. From January 1, 2000, through midnight on June 30, 2005, the tax rate on such food shall be
90 three percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the
91 revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of
92 § 58.1-638, (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in
93 subsections B, C and D of § 58.1-638, and (iii) the revenue from the tax at the rate of one and one-half
94 percent shall be used for general fund purposes.

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

100 B. The provisions of this section shall not affect the imposition of tax on food purchased for human
101 consumption pursuant to §§ 58.1-603.2, 58.1-605, and 58.1-606.

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

113 **§ 58.1-638. Disposition of state sales and use tax revenue.**

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

116 1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted
117 by the 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided
118 in this section, to the Transportation Trust Fund as defined in § 33.2-1524. Of the funds paid to the
119 Transportation Trust Fund, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port
120 Fund as provided in this section; an aggregate of 2.4 percent shall be set aside as the Commonwealth
121 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. Expenditures for such capital needs are restricted to those capital projects specified in subsection B of § 62.1-132.1.

c. Commonwealth Port Fund revenue shall be allocated by the Board of Commissioners to the Virginia Port Authority in order to foster and stimulate the flow of maritime commerce through the ports of Virginia, including but not limited to the ports of Richmond, Hopewell, and Alexandria.

3. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be part of the Transportation Trust Fund and which shall be known as the Commonwealth Airport Fund. The Commonwealth Airport Fund shall be established on the books of the Comptroller and any funds remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the funds shall be credited to the Fund. The funds so allocated shall be allocated by the Commonwealth Transportation Board to the Virginia Aviation Board. The funds shall be allocated by the Virginia Aviation Board to any Virginia airport which is owned by the Commonwealth, a governmental subdivision thereof, or a private entity to which the public has access for the purposes enumerated in § 5.1-2.16, or is owned or leased by the Metropolitan Washington Airports Authority (MWAA), as follows:

Any new funds in excess of \$12.1 million which are available for allocation by the Virginia Aviation Board from the Commonwealth Transportation Fund, shall be allocated as follows: 60 percent to MWAA, up to a maximum annual amount of \$2 million, and 40 percent to air carrier airports as provided in subdivision A 3 a. Except for adjustments due to changes in enplaned passengers, no air carrier airport sponsor, excluding MWAA, shall receive less funds identified under subdivision A 3 a than it received in fiscal year 1994-1995.

Of the remaining amount:

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

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

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

3a. There is hereby created in the Department of the Treasury a special nonreverting fund that shall be a part of the Transportation Trust Fund and that shall be known as the Commonwealth Space Flight Fund. The Commonwealth Space Flight Fund shall be established on the books of the Comptroller and the funds remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it.

a. The amounts allocated to the Commonwealth Space Flight Fund pursuant to § 33.2-1526 shall be allocated by the Commonwealth Transportation Board to the Board of Directors of the Virginia Commercial Space Flight Authority to be used to support the capital needs, maintenance, and operating costs of any and all facilities owned and operated by the Virginia Commercial Space Flight Authority.

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

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

a. The Commonwealth Mass Transit Fund shall be established on the books of the Comptroller and any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall be credited to the Fund. If funds in

subdivision 4 b (1)(c) or 4 b (2)(d) are allocated to the construction of a new fixed rail project, such project shall be evaluated according to the process established pursuant to subsection B of § 33.2-214.1. Funds may be paid to any local governing body, transportation district commission, or public service corporation for the purposes hereinafter specified.

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

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

(a) 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.

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

(c) Twenty-five percent of the funds shall be allocated and distributed utilizing a tiered approach evaluated by the Transit Service Delivery Advisory Committee along with the Director of the Department 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 the Department 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 will be included in the tier that applies to the capital asset that is leveraged.

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

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

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

(b) Of the funds pursuant to this section, at least 72 percent shall be allocated to support operating costs of transit providers and distributed by the Commonwealth Transportation Board based on service delivery factors, based on effectiveness and efficiency, as established by the Commonwealth Transportation Board. These measures and their relative weight shall be evaluated every three years and, if redefined by the Commonwealth Transportation Board, shall be published and made available for public comment at least one year in advance of being applied. In developing the service delivery factors, the Commonwealth Transportation Board shall create for the Department of Rail and Public Transportation a Transit Service Delivery Advisory Committee, consisting of two members appointed by the Virginia Transit Association, one member appointed by the Community Transportation Association of Virginia, one member appointed by the Virginia Municipal League, one member appointed by the Virginia Association of Counties, and three members appointed by the Director of the Department of Rail and Public Transportation, to advise the Department of Rail and Public Transportation in the 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 § 33.2-1800 and for purposes as enumerated in subdivision 7 of § 33.2-1701 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. If revenues of the Commonwealth Transit Capital Fund are allocated to the construction of a new fixed rail project, such project shall be evaluated according to the process established pursuant to subsection B of § 33.2-214.1. 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

306 Transportation in implementing rail, public transportation, and congestion management grants and
307 programs.

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

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

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

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

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

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

325 C. The localities' share of the net revenue distributable under this section among the counties and
326 cities shall be apportioned by the Comptroller and distributed among them by warrants of the
327 Comptroller drawn on the Treasurer of Virginia as soon as practicable after the close of each month
328 during which the net revenue was received into the state treasury. The distribution of the localities' share
329 of such net revenue shall be computed with respect to the net revenue received into the state treasury
330 during each month, and such distribution shall be made as soon as practicable after the close of each
331 such month.

332 D. The net revenue so distributable among the counties and cities shall be apportioned and
333 distributed upon the basis of the latest yearly estimate of the population of cities and counties ages five
334 to 19, provided by the Weldon Cooper Center for Public Service of the University of Virginia. Such
335 population estimate produced by the Weldon Cooper Center for Public Service of the University of
336 Virginia shall account for persons who are domiciled in orphanages or charitable institutions or who are
337 dependents living on any federal military or naval reservation or other federal property within the school
338 division in which the institutions or federal military or naval reservation or other federal property is
339 located. Such population estimate produced by the Weldon Cooper Center for Public Service of the
340 University of Virginia shall account for members of the military services who are under 20 years of age
341 within the school division in which the parents or guardians of such persons legally reside. Such
342 population estimate produced by the Weldon Cooper Center for Public Service of the University of
343 Virginia shall account for individuals receiving services in state hospitals, state training centers, or
344 mental health facilities, persons who are confined in state or federal correctional institutions, or persons
345 who attend the Virginia School for the Deaf and the Blind within the school division in which the
346 parents or guardians of such persons legally reside. Such population estimate produced by the Weldon
347 Cooper Center for Public Service of the University of Virginia shall account for persons who attend
348 institutions of higher education within the school division in which the student's parents or guardians
349 legally reside. To such estimate, the Department of Education shall add the population of students with
350 disabilities, ages two through four and 20 through 21, as provided to the Department of Education by
351 school divisions. The revenue so apportionable and distributable is hereby appropriated to the several
352 counties and cities for maintenance, operation, capital outlays, debt and interest payments, or other
353 expenses incurred in the operation of the public schools, which shall be considered as funds raised from
354 local resources. In any county, however, wherein is situated any incorporated town constituting a school
355 division, the county treasurer shall pay into the town treasury for maintenance, operation, capital outlays,
356 debt and interest payments, or other expenses incurred in the operation of the public schools, the proper
357 proportionate amount received by him in the ratio that the school population of such town bears to the
358 school population of the entire county. If the school population of any city or of any town constituting a
359 school division is increased by the annexation of territory since the last estimate of school population
360 provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this
361 section, be added to the school population of such city or town as shown by the last such estimate and a
362 proper reduction made in the school population of the county or counties from which the annexed
363 territory was acquired.

364 E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a
365 two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of
366 hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment,
367 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) 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 established pursuant to § 33.2-1530:

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

The Highway Maintenance and Operating Fund's share of the net revenue distributable under this subsection shall be computed as an estimate of the net revenue to be received into the state treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall be made to the Fund on the last day of each month.

H. (Contingent expiration date) 1. The additional revenue generated by increases in the 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 § 33.2-2509.

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 § 33.2-2600.

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

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

1. The additional revenue generated by increases in the state sales and use tax from the Historic Triangle pursuant to § 58.1-603.2 shall be deposited by the Comptroller as follows: (i) 50 percent shall be deposited into the Historic Triangle Marketing Fund established pursuant to subsection E of § 58.1-603.2; and (ii) 50 percent shall be deposited in the special fund created pursuant to subdivision D 2 of § 58.1-603.2 and distributed to the localities in which the revenues were collected. The net revenues distributable under this subsection shall be computed as an estimate of the net revenues to be received by the state treasury each month, and such estimated payment shall be adjusted for the actual

429 *net revenue received in the preceding month. All payments shall be made to the appropriate funds on*
430 *the last day of each month.*

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

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

436 **§ 58.1-3819. Transient occupancy tax.**

437 A. Any county, by duly adopted ordinance, may levy a transient occupancy tax on hotels, motels,
438 boarding houses, travel campgrounds, and other facilities offering guest rooms rented out for continuous
439 occupancy for fewer than 30 consecutive days. Such tax shall be in such amount and on such terms as
440 the governing body may, by ordinance, prescribe. Such tax shall not exceed two percent of the amount
441 of charge for the occupancy of any room or space occupied; however, Accomack County, Albemarle
442 County, Alleghany County, Amherst County, Augusta County, Bedford County, Bland County, Botetourt
443 County, Brunswick County, Campbell County, Caroline County, Carroll County, Craig County,
444 Cumberland County, Dickenson County, Dinwiddie County, Floyd County, Franklin County, Frederick
445 County, Giles County, Gloucester County, Goochland County, Grayson County, Greene County,
446 Greensville County, Halifax County, Highland County, Isle of Wight County, James City County, King
447 George County, Loudoun County, Madison County, Mecklenburg County, Montgomery County, Nelson
448 County, Northampton County, Page County, Patrick County, Powhatan County, Prince Edward County,
449 Prince George County, Prince William County, Pulaski County, Rockbridge County, Russell County,
450 Smyth County, Spotsylvania County, Stafford County, Tazewell County, Warren County, Washington
451 County, Wise County, Wythe County, and York County may levy a transient occupancy tax not to
452 exceed five percent, and any excess over two percent shall be designated and spent solely for tourism
453 and travel, marketing of tourism or initiatives that, as determined after consultation with the local
454 tourism industry organizations, including representatives of lodging properties located in the county,
455 attract travelers to the locality, increase occupancy at lodging properties, and generate tourism revenues
456 in the locality. ~~If any locality has enacted an additional transient occupancy tax pursuant to subsection C~~
457 ~~of § 58.1-3823, then the governing body of the locality shall be deemed to have complied with the~~
458 ~~requirement that it consult with local tourism industry organizations, including lodging properties. If~~
459 ~~there are no local tourism industry organizations in the locality, the governing body shall hold a public~~
460 ~~hearing prior to making any determination relating to how to attract travelers to the locality and generate~~
461 ~~tourism revenues in the locality.~~

462 B. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied
463 by the same individual or same group of individuals for 30 or more days in hotels, motels, boarding
464 houses, travel campgrounds, and other facilities offering guest rooms. In addition, that portion of any tax
465 imposed hereunder in excess of two percent shall not apply to travel campgrounds in Stafford County.

466 C. Nothing herein contained shall affect any authority heretofore granted to any county, city or town
467 to levy such a transient occupancy tax. The county tax limitations imposed pursuant to § 58.1-3711 shall
468 apply to any tax levied under this section, mutatis mutandis.

469 D. Any county, city or town that requires local hotel and motel businesses, or any class thereof, to
470 collect, account for and remit to such locality a local tax imposed on the consumer may allow such
471 businesses a commission for such service in the form of a deduction from the tax remitted. Such
472 commission shall be provided for by ordinance, which shall set the rate thereof at no less than three
473 percent and not to exceed five percent of the amount of tax due and accounted for. No commission shall
474 be allowed if the amount due was delinquent.

475 E. All transient occupancy tax collections shall be deemed to be held in trust for the county, city or
476 town imposing the tax.

477 **§ 58.1-3823. Additional transient occupancy tax for certain counties.**

478 A. In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through
479 58.1-3821, Hanover County, Chesterfield County and Henrico County may impose:

480 1. An additional transient occupancy tax not to exceed four percent of the amount of the charge for
481 the occupancy of any room or space occupied. The tax imposed hereunder shall not apply to rooms or
482 spaces rented and continuously occupied by the same individual or same group of individuals for 30 or
483 more days. The revenues collected from the additional tax shall be designated and spent for promoting
484 tourism, travel or business that generates tourism or travel in the Richmond metropolitan area; and

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

490 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 58.1-3821, 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 58.1-3821, 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.

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

4. The provisions in subdivision 2 relating to the composition and voting powers of the Williamsburg

552 Area Destination Marketing Committee shall be a condition of the authority to impose the tax provided
553 herein.

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

557 D. In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through
558 58.1-3822, Bedford County may impose an additional transient occupancy tax not to exceed two percent
559 of the amount of the charge for the occupancy of any room or space occupied. The tax imposed
560 hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual
561 or same group of individuals for 30 or more days.

562 The revenues collected from the additional tax shall be designated and spent solely for tourism and
563 travel; marketing of tourism; or initiatives that, as determined after consultation with local tourism
564 industry organizations, including representatives of lodging properties located in the county, attract
565 travelers to the locality, increase occupancy at lodging properties, and generate tourism revenues in the
566 locality.

567 E. D. In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through
568 58.1-3822, Botetourt County may impose an additional transient occupancy tax not to exceed two
569 percent of the amount of the charge for the occupancy of any room or space occupied. The tax imposed
570 hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual
571 or same group of individuals for 30 or more days.

572 The revenue generated and collected from the two percent tax rate increase shall be designated and
573 expended solely for advertising the Roanoke metropolitan area as an overnight tourist destination by
574 members of the Roanoke Valley Convention and Visitors Bureau. For purposes of this subsection,
575 "advertising the Roanoke metropolitan area as an overnight tourism destination" means advertising that
576 is intended to attract visitors from a sufficient distance so as to require an overnight stay.

577 F. E. The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax levied under
578 this section, mutatis mutandis.

579 2. That the provisions of this act shall not become effective until 30 days following the repeal by
580 the City of Williamsburg of Ordinance Number 17-09, Ordinance Number 17-10, and the
581 ordinance imposing the current \$2 transient occupancy tax that is currently designated for
582 promoting tourism in the Historic Triangle Area by the Williamsburg Area Destination Marketing
583 Committee. The City of Williamsburg shall provide notice to the Department of Taxation within
584 three working days of the repeal of both ordinances.

585 3. That the provisions of this act shall expire on January 1, 2019, if the City of Williamsburg does
586 not repeal the ordinances set forth in the second enactment.

587 4. That if the requirements of the second enactment of this act are met and the provisions of this
588 act become effective, the provisions of this act shall expire on the first day of the month following
589 the adoption of any additional food and beverage tax, admissions tax, or transient occupancy tax
590 by the City of Williamsburg or the Counties of James City or York not in effect on January 1,
591 2018, or the reimposition of the \$2 transient occupancy tax in effect on January 1, 2018, pursuant
592 to subsection C of § 58.1-3823 of the Code of Virginia prior to the effective date of this act, but
593 repealed pursuant to the first enactment of this act. The provisions of this enactment shall expire
594 on January 1, 2026.

595 5. That the General Assembly finds that maintaining a robust tourism industry in the Historic
596 Triangle area, the birthplace of not only the Commonwealth but of our nation, is of the utmost
597 economic importance to the Commonwealth as a whole. The travel and tourism industry in the
598 Historic Triangle generated in Fiscal Year 2016 direct employment of 11,945 persons and
599 produced state revenues of \$58.6 million.