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HOUSE BILL NO. 1062

Offered January 26, 1998

A BILL to amend and reenact §§ 2.1-155, 46.2-623, and 58.1-3912 of the Code of Virginia; and to amend the Code of Virginia by adding a section numbered 58.1-3516.3, by adding in Title 58.1 a chapter numbered 35.1, consisting of sections numbered 58.1-3523 through 58.1-3532, and by adding a section numbered 58.1-3916.01, relating to the tangible personal property tax; Personal Property Tax Relief Act of 1998.

Patrons—Callahan, Parrish, Albo, Blevins, Bloxom, Bryant, Byron, Cantor, Clement, Cox, Croshaw, Davis, Devolites, Dillard, Drake, Guest, Hargrove, Harris, Howell, Ingram, Joannou, Katzen, Kilgore, Landes, Marshall, May, McClure, McDonnell, McQuigg, Morgan, Nixon, O'Brien, Orrock, Purkey, Putney, Reid, Rollison, Rust, Sherwood, Tata, Wagner, Wardrup, Ware, Weatherholtz and Wilkins; Senators: Colgan, Martin, Mims, Potts, Quayle, Schrock, Stolle, Stosch, Watkins and Williams

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-155, 46.2-623, and 58.1-3912 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-3516.3, by adding in Title 58.1 a chapter numbered 35.1, consisting of sections numbered 58.1-3523 through 58.1-3532, and by adding a section numbered 58.1-3916.01 as follows:

§ 2.1-155. Duties and powers generally.

The Auditor of Public Accounts shall audit all the accounts of every state department, officer, board, commission, institution or other agency in any manner handling state funds. In the performance of such duties and the exercise of such powers he may employ the services of certified public accountants, provided the cost thereof shall not exceed such sums as may be available out of the appropriation provided by law for the conduct of his office. *As part of his normal oversight responsibilities, the Auditor of Public Accounts shall incorporate into his audit procedures and processes a review process to ensure that the Commonwealth's payments for qualifying vehicles, as defined in § 58.1-3523, are consistent with the provisions of §§ 58.1-3525 and 58.1-3526. The Auditor of Public Accounts shall report to the Governor and the Chairmen of the Senate Finance Committee, the House Appropriations Committee, and the House Finance Committee annually any material failure by a locality or the Commonwealth to comply with the provisions of Chapter 35.1 (§ 58.1-3523 et seq.) of Title 58.1.*

If the Auditor of Public Accounts shall at any time discover any unauthorized, illegal, irregular, or unsafe handling or expenditure of state funds, or if at any time it shall come to his knowledge that any unauthorized, illegal, or unsafe handling or expenditure of state funds is contemplated but not consummated, in either case he shall forthwith lay the facts before the Governor, the Joint Legislative Audit and Review Commission and the Comptroller.

In compliance with the provisions of the federal Single Audit Act of 1984, Public Law 98-502, the Joint Legislative Audit and Review Commission may authorize the Auditor of Public Accounts to biennially audit the accounts pertaining to federal funds received by state departments, officers, boards, commissions, institutions or other agencies.

§ 46.2-623. Statements in application.

A. Every application for a certificate of title shall contain (i) a statement of the applicant's title and of all liens or encumbrances on the vehicle and the names and addresses of all persons having any interest in the vehicle and the nature of every interest in the vehicle. ~~The application shall also contain;~~ (ii) the Social Security number, if any, of the owner and, if the application is in the name of an employer for a business vehicle, the employer's identification number assigned by the United States Internal Revenue Service.

~~Every application for a certificate of title shall contain;~~ and (iii) a brief description of the vehicle to be registered, including the name of the maker, the vehicle identification or serial number and, when registering a new vehicle, the date of sale by the manufacturer or dealer to the person first operating the vehicle.

B. Every application for a certificate of title of a leased passenger car, pickup or panel truck, or motorcycle, all as defined in § 46.2-100, shall include the following:

1. The name and address of the lessee as it appears in the lease contract;

2. The Social Security number, if any, of the lessee if the lessee is a natural person, or the identification number assigned to the lessee by the United States Internal Revenue Service if the lessee is a business, including a sole proprietorship, partnership, corporation, limited liability company,

INTRODUCED

HB1062

60 professional limited liability company, unincorporated association, or other business entity;

61 3. A designation of the lessee as (i) a natural person or (ii) a business, including a sole
62 proprietorship, partnership, corporation, limited liability company, professional limited liability
63 company, unincorporated association, or other business entity; and

64 4. A statement indicating whether the lease contract requires the lessee to pay the tangible personal
65 property tax on the leased vehicle.

66 C. The application shall contain whatever additional information may be required by the Department.

67 D. Not later than July 1, 1998, the lessor of any passenger car, pickup or panel truck, or
68 motorcycle, all as defined in § 46.2-100, shall send a report to the Department containing the same
69 information required by subsection B for each such vehicle which it was leasing as of May 31, 1998.

70 E. Beginning with August, 1998, such lessor shall send a monthly report to the Department, by the
71 fifteenth day of the month or such later day as may be prescribed in the guidelines promulgated under
72 § 58.1-3532, listing any changes to the information provided under subsection D as of the last day of
73 the preceding month.

74 § 58.1-3516.3. Proration of personal property tax on qualifying vehicles after January 1, 1998.

75 No county, city, or town shall adopt an ordinance providing for proration of tangible personal
76 property tax on qualifying vehicles, as defined in § 58.1-3523. Any ordinance providing for the
77 proration of such tax adopted by a county, city, or town on or after January 1, 1998, shall be invalid.

78 CHAPTER 35.1.

79 PERSONAL PROPERTY TAX RELIEF ACT OF 1998.

80 § 58.1-3523. Definitions.

81 As used in this chapter:

82 "Commissioner" means the Commissioner of the Department of Motor Vehicles.

83 "Commissioner of revenue" means the commissioner of revenue of a county or city and includes the
84 director of finance or other officer of a county, city or town who is primarily responsible for assessing
85 qualifying vehicles.

86 "Department" means the Department of Motor Vehicles.

87 "Effective tax rate" means the tax rate imposed by a locality on tangible personal property on the
88 applicable class of tangible personal property multiplied by the assessment ratio.

89 "Leased" means leased by a natural person as lessee and used for non-business purposes.

90 "Non-business purpose" means a use not related to the conduct of a business as determined pursuant
91 to the guidelines promulgated by the Department under § 58.1-3532.

92 "Percentage level" means the percentage of the reimbursable amount to be reimbursed or paid by
93 the Commonwealth.

94 "Privately owned" means owned by a natural person and used for non-business purposes.

95 "Qualifying vehicle" means any passenger car, motorcycle, and pickup or panel truck, all as defined
96 in § 46.2-100, provided that such vehicle is (i) privately owned or (ii) leased pursuant to a contract
97 requiring the lessee to pay the tangible personal property tax on such vehicle. In determining whether a
98 vehicle is a qualifying vehicle, the commissioner of revenue may rely on the registration of such vehicle
99 with the Department pursuant to Chapter 6 (§ 46.2-600 et seq.) of Title 46.2.

100 "Reimbursable amount" means the value of a qualifying vehicle, up to the first \$20,000 of value,
101 multiplied by the effective tax rate in effect in the locality on January 1, 1997.

102 "Tangible personal property tax" means the tax levied pursuant to Article 1 (§ 58.1-3500 et seq.) of
103 Chapter 35 of Title 58.1.

104 "Treasurer" means the treasurer of a county or city and includes any officer of a county, city or
105 town who is primarily responsible for performing the duties set forth in Article 2 (§ 58.1-3123 et seq.)
106 of Chapter 31 of Title 58.1.

107 "Value" means the fair market value determined by the method prescribed in § 58.1-3503 and used
108 by the locality as of January 1, 1997, in valuing the qualifying vehicle.

109 § 58.1-3524. Reimbursement of tangible personal property taxes; deduction on tangible personal
110 property tax bills.

111 A. For tax year 1998, the Commonwealth shall directly reimburse taxpayers, for tangible personal
112 property tax levies paid on any qualifying vehicle, a percentage of the reimbursable amount determined
113 pursuant to subdivision B 1, as provided in § 58.1-3525. For tax year 1999 and tax years thereafter, the
114 Commonwealth shall pay to treasurers a percentage of the reimbursable amount determined pursuant to
115 subdivisions 2 through 5 of subsection B on any qualifying vehicle, as provided in § 58.1-3526. An
116 amount equal to the percentage of the reimbursable amount as determined under subdivisions B 2
117 through B 5 shall appear as a deduction on the tangible personal property tax bill for qualifying
118 vehicles, as provided by subsection E of § 58.1-3912.

119 B. Subject to the conditions of subsections C and D, the amount of the reimbursement to taxpayers
120 for tax year 1998 and the amount of the payments to treasurers for tax years after 1998 shall be as
121 follows:

Percentage Level

1. For any tax year beginning in
calendar year 1998 15 percent of the reimbursable
amount for each qualifying vehicle
2. For any tax year beginning in
calendar year 1999 30 percent of the reimbursable
amount for each qualifying vehicle
3. For any tax year beginning in
calendar year 2000 50 percent of the reimbursable
amount for each qualifying vehicle
4. For any tax year beginning in
calendar year 2001 70 percent of the reimbursable
amount for each qualifying vehicle
5. For any tax year beginning in
calendar year 2002 and tax
years thereafter 100 percent of the reimbursable
amount for each qualifying vehicle

C. Notwithstanding the schedule set forth in subsection B, if a revised general fund revenue forecast presented to the General Assembly in December of any year indicates a decline in anticipated general fund revenue collections for the current fiscal year as compared to total general fund revenues officially appropriated for such fiscal year in the general appropriation act in effect at that time, the amount to be paid by the Commonwealth for the immediately following tax year shall be calculated at the percentage level in effect for the current tax year.

D. If the percentage level remains the same for consecutive tax years, the percentage level to be used in the following tax years shall be as follows, unless the condition described in subsection C occurs, in which event the amount to be paid by the Commonwealth for the immediately following tax year shall be calculated at the percentage level in effect for the current tax year:

1. For the immediately following tax year, the percentage level shall be equal to the next highest percentage level listed in subsection B; and

2. For each succeeding tax year, the percentage level shall increase to the next highest percentage level listed in subsection B, unless the condition described in subsection C occurs, in which event the amount to be paid by the Commonwealth for the immediately following tax year shall be calculated at the percentage level in effect for the current tax year.

§ 58.1-3525. Reimbursement to taxpayers for tax year 1998 levies.

A. For tax year 1998 tangible personal property tax levies paid on qualifying vehicles, the Commonwealth shall reimburse to the taxpayer the amount specified in subdivision B 1 of § 58.1-3524.

B. Reimbursements shall be made according to the following schedule:

1. The reimbursement relating to tax year 1998 levies paid by taxpayers between January 1, 1998, and June 30, 1998, shall be sent to taxpayers by United States mail on or before November 15, 1998.

a. On or before July 31, 1998, the commissioner of revenue shall certify the value of each qualifying vehicle to the treasurer of the locality.

b. On or before August 31, 1998, the treasurer shall certify to the Department, in the manner prescribed by the Department, the amount as determined under subdivision B 1 of § 58.1-3524 to be reimbursed to each taxpayer.

c. On or before September 30, 1998, after due diligence, the Commissioner shall certify the amount to be reimbursed to each taxpayer and shall make a written request to the Comptroller for payment.

2. The reimbursement relating to tax year 1998 levies paid by taxpayers between July 1, 1998, and December 31, 1998, shall be sent to taxpayers by United States mail on or before May 15, 1999.

181 a. On or before January 31, 1999, the commissioner of revenue shall certify the value of each
182 qualifying vehicle to the treasurer of the locality.

183 b. On or before February 28, 1999, the treasurer shall certify to the Department, in the manner
184 prescribed by the Department, the amount as determined under subdivision B 1 of § 58.1-3524 to be
185 reimbursed to each taxpayer.

186 c. On or before March 31, 1999, after due diligence, the Commissioner shall certify the amount to
187 be reimbursed to each taxpayer and shall make a written request to the Comptroller for payment.

188 3. The reimbursement relating to tax year 1998 levies paid by taxpayers after December 31, 1998,
189 shall be sent by United States mail to taxpayers within 100 days of payment.

190 a. Within thirty days of payment, the commissioner of revenue shall certify the value of each
191 qualifying vehicle to the treasurer of the locality.

192 b. Within thirty days of receipt of such certification, the treasurer shall certify to the Department, in
193 the manner prescribed by the Department, the amount as determined under subdivision B 1 of
194 § 58.1-3524 to be reimbursed to each taxpayer.

195 c. After due diligence and within thirty days of receipt of the treasurer's certification, the
196 Commissioner shall certify the amount to be reimbursed to each taxpayer and shall make a written
197 request to the Comptroller for payment.

198 4. In each instance, the treasurer shall also include the commissioner of revenue's certification along
199 with any certification he is required to send to the Department.

200 C. If the situs for the assessment and taxation of a qualifying vehicle, as determined pursuant to
201 § 58.1-3511, changes in tax year 1998, the reimbursement under this section shall be made only for
202 tangible personal property taxes paid on such vehicle to the county, city, or town in which the vehicle
203 first had situs for taxation in tax year 1998.

204 D. Payments to taxpayers under this section shall be made by the State Treasurer on warrants issued
205 by the Comptroller.

206 E. The reimbursement provided under this section for a qualifying vehicle which is leased shall be
207 paid directly to the lessee of such vehicle.

208 § 58.1-3526. Payment to treasurers for tax year 1999 and thereafter.

209 A. For tax year 1999 and tax years thereafter, the Commonwealth shall pay to treasurers the amount
210 specified in subdivisions B 2 through B 5 of § 58.1-3524 for each qualifying vehicle, if the conditions of
211 this section are satisfied.

212 B. As provided by subsection E of § 58.1-3912, the treasurer shall include such amount as a
213 deduction on the face of tangible personal property tax bills for qualifying vehicles and shall clearly
214 designate such deduction as an amount to be paid by the Commonwealth. In addition to tangible
215 personal property taxes levied on property other than qualifying vehicles, the taxpayer shall pay to the
216 treasurer any payment due for the difference between tangible personal property taxes levied on a
217 qualifying vehicle and such deduction. The commissioner of revenue shall certify the value of qualifying
218 vehicles in the county, city, or town in a manner which will enable the treasurer to comply with the
219 provisions of this subsection.

220 C. Except as provided by subsection B of § 58.1-3528, upon full payment of the tangible personal
221 property tax levied on a qualifying vehicle, less the amount of the deduction, as described in subsection
222 B of this section, the treasurer shall make a request to the Commonwealth for payment of the amount
223 equal to the amount specified in subdivisions B 2 through B 5 of § 58.1-3524 for the qualifying vehicle.
224 Such request shall include a summary of the information appearing on the related tangible personal
225 property tax bill. The summary information to be included in the request and the form of such request
226 shall be prescribed by the Comptroller. Upon receipt of such information, the Comptroller shall issue
227 the proper warrant for payment by the State Treasurer. If the Comptroller determines that a treasurer is
228 unable to provide the summary information, he shall issue a warrant for payment to such treasurer in
229 an amount equal to the estimate made by the Department under § 58.1-3529.

230 D. 1. If a taxpayer is required to make a payment for the difference between the tangible personal
231 property tax levied on a qualifying vehicle and the deduction as described in subsection B, the amount
232 as determined under subdivisions B 2 through B 5 of § 58.1-3524 for such qualifying vehicle shall be
233 paid to the treasurer at such times as is consistent with the treasurer's receipt of tangible personal
234 property tax payments on qualifying vehicles as of January 1, 1997.

235 2. Except as provided in subdivision D 3, if a taxpayer is not required to return to the treasurer any
236 payment of tangible personal property tax for a qualifying vehicle, the amount as determined under
237 subdivisions B 2 through B 5 of § 58.1-3524 for such qualifying vehicle shall be paid to the treasurer
238 over a four-week period. There shall be one equal payment in each week. The first payment shall be
239 made four weeks prior to the county, city, or town's due date for tangible personal property taxes on
240 qualifying vehicles. However, the Comptroller shall not issue a warrant for payment unless he has
241 received the certification described in § 58.1-3916.01.

242 3. If (i) a taxpayer is not required to return to the treasurer any payment of tangible personal

property tax for a qualifying vehicle and (ii) the tangible personal property tax levy on such vehicle has been made as authorized under § 58.1-3516, the amount as determined under subdivisions B 2 through B 5 of § 58.1-3524 for such qualifying vehicle shall be paid to the treasurer at such times as is consistent with the treasurer's receipt of tangible personal property tax payments on qualifying vehicles as of January 1, 1997.

E. In addition to the summary information described in subsection C, the treasurer shall send detailed information on tangible personal property tax bills for qualifying vehicles to the Department. The Department shall prescribe the information required, its format, and its due date.

§ 58.1-3527. Reconciliation of amounts paid to counties, cities, and towns.

For tax years 1999 and tax years thereafter, the Department and each treasurer shall reconcile the amount paid by the Commonwealth to such treasurer. The Department may use the information described in subsections C and E of § 58.1-3526 and any other source or data it deems appropriate in making such a reconciliation. If the Department determines that the correct amount has not been paid to such treasurer, the Department shall (i) for any underpayments, make a written request to the Comptroller to make a payment for any underpayment; or (ii) for any overpayment, direct the Comptroller to reduce the respective county, city, or town's next payment or payments, in the current or succeeding years, under § 58.1-3526 accordingly. The guidelines promulgated under § 58.1-3532 shall establish procedures for such reconciliations.

§ 58.1-3528. Interest; Commonwealth to make payments when taxes paid in full.

A. Payments to taxpayers and treasurers under this chapter shall not include interest.

B. The Commonwealth shall not make the reimbursement to a taxpayer, as provided under § 58.1-3525, or payment to a treasurer, as provided under subsection C of § 58.1-3526, unless the tangible personal property taxes for the related qualifying vehicle have been paid in full. However, if a county, city, or town has entered into a written agreement with a taxpayer under which such taxpayer is allowed to satisfy the tangible personal property tax liability on a qualifying vehicle in installment payments, except as provided under § 58.1-3916, the Commonwealth shall pay the respective amount specified in subdivisions B 2 through B 5 of § 58.1-3524 for such vehicle to the treasurer if the taxpayer has paid at least fifty percent of such tangible personal property tax liability.

§ 58.1-3529. Estimate of payments to be made by the Commonwealth.

On November 1 of each year, the Department shall estimate the amount to be paid by the Commonwealth under this chapter for the upcoming tax year and shall provide a report to the Governor of the same. Upon the request of the Comptroller, the Department shall also make an estimate of the amount to be paid by the Commonwealth in any tax year to an individual county, city, or town and shall report the estimated amount to the Comptroller.

§ 58.1-3530. Payments to taxpayers subject to Setoff Debt Collection Act.

Any amount to be reimbursed to a taxpayer for tax year 1998 levies paid on qualifying vehicles pursuant to § 58.1-3525 shall be subject to the Setoff Debt Collection Act (§ 58.1-520 et seq.).

§ 58.1-3531. Full payment of tangible personal property tax on qualifying vehicles not made.

Beginning in tax year 1999, notwithstanding any other provision of law, general and special, including the provisions of the charter of any city or town:

1. If a taxpayer fails to make the payment described in subsection B of § 58.1-3526 by its due date or fails to comply with the filing requirements for qualifying vehicles under §§ 58.1-3518 and 58.1-3518.1, no penalty or interest may be imposed on any amount to be paid by the Commonwealth as determined under subdivisions B 2 through B 5 of § 58.1-3524; and

2. If a taxpayer (i) fails to comply with the filing requirements for a qualifying vehicle under §§ 58.1-3518 and 58.1-3518.1 and (ii) is not required to return to the treasurer any payment of tangible personal property tax for such vehicle, the local motor vehicle license for such vehicle, as described in Article 11 (§ 46.2-750 et seq.) of Chapter 6 of Title 46.2 shall not be issued until the taxpayer complies with such filing requirements.

§ 58.1-3532. Department to promulgate guidelines.

A. The Department shall promulgate guidelines for the use of local governments in administering the provisions of this chapter. In preparing such guidelines, the Department shall not be subject to the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.) for guidelines promulgated on or before July 1, 2001, but shall cooperate with and seek the counsel of local officials and interested groups. Such guidelines shall be available for distribution to local governments on July 1, 1998. Thereafter, the guidelines shall be updated triennially.

§ 58.1-3912. Treasurers to mail certain bills to taxpayers; penalties.

A. The treasurer of every city and county shall, as soon as reasonably possible in each year, but not later than fourteen days prior to the due date of the taxes, send or cause to be sent by United States mail to each taxpayer assessed with taxes and levies for that year amounting to five dollars or more as shown by an assessment book in such treasurer's office, a bill or bills setting forth the amounts due. The

304 treasurer may employ the services of a mailing service or other vendor for fulfilling the requirements of
305 this section. The failure of any such treasurer to comply with this section shall be a Class 4
306 misdemeanor. Such treasurer shall be deemed in compliance with this section as to any taxes due on
307 real estate if, upon certification by the obligee of any note or other evidence of debt secured by a
308 mortgage or deed of trust on such real estate that an agreement has been made with the obligor in
309 writing within the mortgage or deed of trust instrument that such arrangements be made, he mails the
310 bill for such taxes to the obligee thereof. Upon nonpayment of taxes by either the obligee or obligor, a
311 past-due tax bill will be sent to the taxpayer. No governing body shall publish the name of a taxpayer in
312 connection with a tax debt for which a bill was not sent, without first sending a notice of deficiency to
313 his last known address at least two weeks before such publication.

314 B. The governing body of any county, city or town may attach to or mail with all real estate and
315 tangible personal property tax bills, prepared for taxpayers in such locality, information indicating how
316 the tax rate charged upon such property and revenue derived therefrom is apportioned among the various
317 services and governmental functions provided by the locality.

318 C. Notwithstanding the provisions of subsection A of this section, in any county which has adopted
319 the urban county executive form of government, and in any county contiguous thereto which has
320 adopted the county executive form of government, tangible personal property tax bills shall be mailed
321 not later than thirty days prior to the due date of such taxes.

322 D. Notwithstanding the provisions of subsection A of this section, any county and town, the
323 governing bodies of which mutually agree, shall be allowed to send, to each taxpayer assessed with
324 taxes, by United States mail no later than fourteen days prior to the due date of the taxes, a single real
325 property tax bill and a single tangible personal property tax bill.

326 E. Beginning with tax year 1999, in addition to all other information currently appearing on tangible
327 personal property tax bills, each such bill shall state on its face (i) whether the vehicle is a qualifying
328 vehicle as defined in § 58.1-3523; (ii) a deduction for the amount to be paid by the Commonwealth as
329 determined by § 58.1-3524; (iii) the vehicle's registration number pursuant to § 46.2-604; (iv) whether
330 the vehicle is registered to (a) a natural person or (b) a business, including a sole proprietorship; and
331 (v) the amount of tangible personal property tax levied on the vehicle.

332 F. Beginning with tax year 1999 and through the end of tax year 2002, the treasurer shall include
333 an insert, prepared by the Department, with the tangible personal property tax bills for such qualifying
334 vehicles. The insert shall explain how the deduction for the percentage of the reimbursable amount was
335 calculated, how the deduction shall be calculated in future years, and the taxpayer's liability for
336 tangible personal property taxes on qualifying vehicles.

337 § 58.1-3916.01. Billing and due dates to remain the same for motor vehicles.

338 Counties, cities, and towns shall not change billing dates and due dates in effect for tangible
339 personal property taxes on qualifying vehicles, as defined in § 58.1- 3523, to an earlier date, any other
340 provision of law, general and special, including the provisions of the charter of any city or town, to the
341 contrary notwithstanding. As used herein, "billing date" means the date on which a locality sends or
342 causes to be sent a bill for tangible personal property taxes in accordance with § 58.1-3912. Any such
343 change adopted by a county, city, or town on or after January 1, 1998, shall be invalid. The treasurer
344 shall certify such billing and due dates in effect on January 1, 1997, to the Comptroller by January 1,
345 1999.

346 2. That the provisions of this Act shall be effective for all tax years beginning on or after January
347 1, 1998.