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HOUSE BILL NO. 2357

Offered January 21, 1999

A BILL to amend and reenact §§ 22.1-175.4, 58.1-4020, and 58.1-4022 of the Code of Virginia; to amend the Code of Virginia by adding a section numbered 58.1-628.1; and by repealing §§ 1 and 2 of the second enactment of Chapter 2 of the 1998 Acts of Assembly (Special Session), relating to the Omnibus Prosperity Act of 1999.

Patrons—Cranwell, Armstrong, Barlow, Bennett, Brink, Christian, Clement, Crittenden, Darner, Davies, Day, DeBoer, Deeds, Diamonstein, Dickinson, Grayson, Hall, Hull, Jackson, Johnson, Jones, D.C., Jones, J.C., Keating, McEachin, Moss, Phillips, Robinson, Shuler, Spruill, Tate, Thomas, Van Landingham, Van Yahres, Williams and Woodrum; Senators: Couric, Edwards, Lambert, Marsh, Miller, Y.B., Puckett, Reynolds and Ticer

Referred to Committee on Finance

Whereas, the General Assembly desires to promote the prosperity of the Commonwealth's citizens; and

Whereas, the General Assembly realizes the importance of quality education for the school children of the Commonwealth in promoting the prosperity of the Commonwealth's citizens; and

Whereas, the General Assembly recognizes that the tax on food for human consumption is a regressive tax; and

Whereas, the General Assembly has acted in the past to provide tax relief to citizens without increasing the financial burden on localities; and

Whereas, it is the intent of the General Assembly to promote the prosperity of the citizens of the Commonwealth by providing tax relief for citizens and providing the necessary financial support to localities for school construction and other infrastructure needs; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-175.4, 58.1-4020, and 58.1-4022 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-628.1 as follows:

§ 22.1-175.4. Application for grants.

A. All funds appropriated for financial assistance for the purposes of this chapter during fiscal years 1998-1999 and 1999-2000 In fiscal year 1998-1999, \$55 million of the lottery proceeds pursuant to Item 554 of the 1998-2000 Appropriation Act shall be apportioned and distributed among the school divisions of the Commonwealth as follows: (i) there shall be apportioned and distributed equally to every school division grants in the sum of \$200,000 each and (ii) the balance of all available funds shall be apportioned and distributed to each school division on a pro rata basis according to the school division's average daily membership adjusted by the locality's composite index of ability to pay as set forth in the general appropriation act.

B. All funds appropriated for financial assistance for the purposes of this chapter for subsequent fiscal years shall be apportioned and distributed among the school divisions of the Commonwealth in accordance with eligibility and needs criteria to be established by the 2000 Session of the General Assembly. In developing such eligibility and needs criteria, the 2000 Session of the General Assembly shall consider the recommendations of the Commission on State Funding of Public School Construction. Beginning with fiscal year 1999-2000, 100 percent of the lottery proceeds shall be appropriated for the purposes of this chapter. The funding shall be apportioned and distributed among the school divisions of the Commonwealth as follows: (i) forty percent of the available funds shall be allocated and distributed equally to each school division; (ii) forty percent of the available funds shall be allocated and distributed to each school division according to the school division's adjusted average daily membership multiplied by one minus its composite index of local ability to pay, based on each school division's percentage of average weighted daily membership of the state total; (iii) ten percent of the available funds shall be allocated and distributed to those school divisions with an increase in adjusted daily average membership from fiscal year 1992 to fiscal year 1997, based on each school division's percentage of such growth of the state total; and (iv) ten percent of the available funds shall be allocated and distributed to each school division based on eligibility criteria determined by the Board. Such eligibility criteria shall include demonstrated need based on local ability to pay for public school construction; population growth; past local effort in maintaining, renovating and constructing public school buildings; and the availability and pledge of local matching funds.

§ 58.1-628.1. Rate of tax on sales of food purchased for human consumption.

A. The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606

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60 on food purchased for human consumption shall be levied as follows:

61 1. On and after July 1, 1999, the tax rate on such food shall be three percent with the one and
62 one-half percent that is eliminated resulting in a reduction of only the state's share of the revenues
63 collected;

64 2. On and after July 1, 2000, the tax rate on such food shall be one and one-half percent with the
65 three percent that is eliminated resulting in the elimination of the state's two percent share, the
66 elimination of the Transportation Trust Fund's one-half percent share and a one-half percent reduction
67 of the share returned to localities based on school age population; however, any amounts foregone by
68 the Transportation Trust Fund and the locality share based on school age population shall be funded
69 from other state revenues and shall be distributed as if collected in accordance with the provisions of
70 § 58.1-638; and

71 3. On and after July 1, 2001, the tax rate on such food shall be eliminated. The foregone one
72 percent local option sales and use tax shall be funded from other state revenues and shall be distributed
73 as if collected in accordance with the provisions of §§ 58.1-605 and 58.1-606 and all amounts foregone
74 by the Transportation Trust Fund and the locality share based on school age population shall be funded
75 from other state revenues and shall be distributed as if collected in accordance with the provisions of
76 § 58.1-638.

77 B. As used in this section, "food purchased for human consumption" means food and food products
78 not otherwise exempt but would be exempt if purchased with coupons issued under the federal Food
79 Stamp Program, 7 U.S.C. § 51, except for seeds and plants which produce food for human consumption.
80 § 58.1-4020. Unclaimed prizes.

81 A. Unclaimed prizes for a winning ticket or share shall be retained by the Director for the person
82 entitled thereto for 180 days after the drawing in which the prize was won in the case of a drawing
83 prize and for 180 days after the announced end of the lottery game in the case of a prize determined in
84 any manner other than by means of a drawing. If no claim is made for the prize within the 180 days,
85 the Director shall deem such prize forfeited by the person entitled to claim such winnings.

86 B. All prizes deemed forfeited pursuant to subsection A shall be paid into the Literary Fund. The
87 Director may develop procedures, to be approved by the Auditor of Public Accounts, for estimating the
88 cumulative total of such unclaimed prizes in any lottery game in lieu of specifically identifying
89 unclaimed prizes where such specific identification would not be cost effective. The Director, within
90 sixty days after the end of each 180-day retention period, shall report the total value of prizes forfeited
91 at the end of such period to the Comptroller, who shall promptly transfer the total of such prizes to the
92 Literary Fund. The total value of prizes forfeited during the fiscal year shall be audited by the Auditor
93 of Public Accounts in accordance with § 58.1-4023. In the case of a prize payable over time on one or
94 more winning tickets, if one or more winning tickets is not claimed within the 180-day redemption
95 period, the Department shall transfer the then current monetary value of such portion of the prize
96 remaining unclaimed to the Literary Fund in accordance with procedures approved by the State
97 Treasurer. "Current monetary value" shall be determined by the net proceeds from the sale of that
98 portion of jackpot securities allocated to the unclaimed winner plus the amount of the initial cash
99 payment. Beginning in fiscal year 2000, forfeited prizes shall be paid into the Virginia Public School
100 Construction Grants Fund as provided for in § 22.1-175.1.

101 C. Subsection B of this section shall not apply to prizes of twenty-five dollars or less resulting from
102 any lottery game other than a lottery game in which a drawing determined the prize. The Board shall
103 adopt regulations for the disposition of all such unclaimed prizes of twenty-five dollars or less not
104 resulting from a drawing. Such disposition shall be directed in whole or in part to either the State
105 Lottery Fund or to other forms of compensation to licensed sales agents.

106 D. For purposes of this section, "prize" refers to a cash prize. In the case of a prize payable over
107 time and not as a lump sum payment, "prize" means the present cash value of the prize, not the value
108 paid over time.

109 E. In accordance with the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 App.
110 U.S.C.A. § 525), any person whose unclaimed prize was deemed forfeited pursuant to subsection A
111 while he was in active military service may claim such forfeited prize by presenting his winning ticket
112 to the Director no later than 180 days after his discharge from active military service. Within thirty days
113 of such presentation, the Director shall verify the claim and report the verification to the Comptroller.
114 The Comptroller shall promptly pay the verified claim first from funds available in the Unclaimed
115 Property Trust Fund in § 3-2.00 of the general appropriations act; if such funds are insufficient, then,
116 from any undesignated, unreserved year-end balance of the general fund. All verified claims shall be
117 paid in accordance with the Board's rules and regulations then in effect regarding the manner of
118 payment of prizes to the holders of winning tickets or shares.

119 § 58.1-4022. State Lottery Fund.

120 A. All moneys received from the sale of lottery tickets or shares, less payment for prizes and
121 compensation of agents as authorized by regulation and any other revenues received under this chapter,

shall be placed in a special fund known as the "State Lottery Fund." Notwithstanding any other provisions of law, interest earned from moneys in the State Lottery Fund shall accrue to the benefit of such Fund.

B. The total costs for the operation and administration of the lottery shall be funded from the State Lottery Fund and shall be in such amount as provided in the general appropriation act. Appropriations to the Department during any fiscal year beginning on and after July 1, 1989, exclusive of agent compensation, shall at no time exceed ten percent of the total annual estimated gross revenues to be generated from lottery sales. However, should it be anticipated at any time by the Director that such operational and administrative costs for a fiscal year will exceed the limitation provided herein, the Director shall immediately report such information to the Board, the Governor and the Chairmen of Senate Finance and House Appropriations Committees. From the moneys in the Fund, the Comptroller shall establish a special reserve fund in such amount as shall be provided by regulation of the Department for (i) operation of the lottery, (ii) use if the game's pay-out liabilities exceed its cash on hand, or (iii) enhancement of the prize pool with income derived from lending securities held for payment of prize installments, which lending of securities shall be conducted in accordance with lending programs approved by the Department of the Treasury.

C. Any start-up sums appropriated from the general fund of the Commonwealth necessary to commence operation of a state lottery shall be repaid within the first twelve months of initial lottery sales.

D. Appropriation of lottery revenues shall be made only upon actual and audited collections as transferred to the general fund and shall in no event be predicated upon an estimation of such revenues. No later than ten days after receipt of the audit report required by § 58.1-4023, the Comptroller shall transfer to the general fund, less the special reserve fund, the audited balances of the State Lottery Fund.

~~In addition to such other funds as may be appropriated, 100 percent of the lottery~~ Lottery revenues transferred to the general fund shall be appropriated entirely and solely for the purpose of public education in the Commonwealth, which purposes shall include, but not be limited to, those programs specified in § 22.1-199.1; *however, in fiscal year 1999, 17.5 percent and in fiscal year 2000 and thereafter through fiscal year 2010, 100 percent of the lottery revenues transferred to the general fund shall be deposited in the Virginia School Construction Grant Fund as provided for in § 22.1-175.1.*

E. As a function of the administration of this chapter, funds may be expended for the purposes of reasonably informing the public concerning (i) the facts embraced in the subjects contained in subdivisions 1 through 7 of subsection A of § 58.1-4007 and (ii) the fact that the net proceeds are paid into the general fund of the Commonwealth; but no funds shall be expended for the primary purpose of inducing persons to participate in the lottery.

2. That §§ 1 and 2 of Chapter 2 of the Acts of Assembly of 1998 (Special Session), is repealed.