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**SENATE BILL NO. 1083**

Offered January 10, 2001

Prefiled January 10, 2001

*A BILL to amend and reenact §§ 2.1-155, 9-385, 46.2-623, 58.1-603, 58.1-604, 58.1-604.1, 58.1-608.3, 58.1-611.1, 58.1-614, 58.1-627, 58.1-628, 58.1-638, and 58.1-3912 of the Code of Virginia, to amend the Code of Virginia by adding in Title 58.1 a chapter numbered 35.2 consisting of sections numbered 58.1-3537 and 58.1-3538 and by adding in Article 5 of Chapter 36 of Title 58.1 a section numbered 58.1-3667, and to repeal §§ 15.2-1636.20 and 58.1-3916.01 and Chapter 35.1 of Title 58.1 of the Code of Virginia, relating to sales and use tax increase, and payments to localities in lieu of tangible personal property taxation of certain motor vehicles and boats.*

Patrons—Colgan; Delegate: Plum

Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.1-155, 9-385, 46.2-623, 58.1-603, 58.1-604, 58.1-604.1, 58.1-608.3, 58.1-611.1, 58.1-614, 58.1-627, 58.1-628, 58.1-638, and 58.1-3912 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Title 58.1 a chapter numbered 35.2 consisting of sections numbered 58.1-3537 and 58.1-3538 and by adding in Article 5 of Chapter 36 of Title 58.1 a section numbered 58.1-3667, 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 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.

**§ 9-385. Tax Credits for Technology Industries in Tobacco-Dependent Localities.**

A. Money received by the Commonwealth pursuant to the Master Settlement Agreement shall be deposited into the state treasury subject to the special nonreverting funds established by subsection B of this section and by § 32.1-360 ~~and shall be included in general fund revenue calculations for purposes of subsection C of § 58.1-3524 and subsection B of § 58.1-3536.~~

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Tobacco Indemnification and Community Revitalization Fund. The Fund shall be established on the books of the Comptroller. Fifty percent of the annual amount received by the Commonwealth from the Master Settlement Agreement shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes described in this chapter; however, starting with the fiscal year beginning July 1, 2000, through December 31, 2009, the Commission may deposit moneys from the Fund into the Technology Initiative in Tobacco-Dependent Localities Fund, established under § 58.1-439.15, for purposes of funding the tax credits provided in §§ 58.1-439.13 and 58.1-439.14 and the grants provided in § 58.1-439.17. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the

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59 Comptroller upon written authorization signed by the chairman of the Commission or his designee. The  
60 Fund shall also consist of other moneys received by the Commission, from any source, for the purpose  
61 of implementing the provisions of this chapter.

62 § 46.2-623. Statements in application.

63 A. Every application for a certificate of title shall contain (i) a statement of the applicant's title and  
64 of all liens or encumbrances on the vehicle and the names and addresses of all persons having any  
65 interest in the vehicle and the nature of every interest in the vehicle; (ii) the Social Security number, if  
66 any, of the owner and, if the application is in the name of an employer for a business vehicle, the  
67 employer's identification number assigned by the United States Internal Revenue Service; and (iii) a  
68 brief description of the vehicle to be registered, including the name of the maker, the vehicle  
69 identification or serial number and, when registering a new vehicle, the date of sale by the manufacturer  
70 or dealer to the person first operating the vehicle.

71 B. Not later than July 15, 1998, the lessor of a qualifying vehicle, as defined in § 58.1-3523, shall  
72 send a report to the Department for each such qualifying vehicle it was leasing as of July 1, 1998, and  
73 has leased between January 1, 1998, and June 30, 1998, containing (i) the name and address of the  
74 lessee as it appears in the lease contract; (ii) the social security number of the lessee; and (iii) the  
75 registration number of the vehicle as described under Article 1 (§ 46.2-600 et seq.) of Chapter 6 of Title  
76 46.2.

77 C. Beginning with August 1998, such lessor shall send a monthly report to the Department, by the  
78 fifteenth day of the month or such later day as may be prescribed in the guidelines promulgated under  
79 § 58.1-3532, listing any changes, additions or deletions to the information provided under subsection B  
80 as of the last day of the preceding month.

81 DB. The application shall contain such additional information as may be required by the Department.

82 § 58.1-603. Imposition of sales tax.

83 There is hereby levied and imposed, in addition to all other taxes and fees of every kind now  
84 imposed by law, a license or privilege tax upon every person who engages in the business of selling at  
85 retail or distributing tangible personal property in this Commonwealth, or who rents or furnishes any of  
86 the things or services taxable under this chapter, or who stores for use or consumption in this  
87 Commonwealth any item or article of tangible personal property as defined in this chapter, or who  
88 leases or rents such property within this Commonwealth, in the amount of three and one-half percent  
89 before January 1, 2003, and five percent on and after January 1, 2003:

90 1. Of the gross sales price of each item or article of tangible personal property when sold at retail or  
91 distributed in this Commonwealth.

92 2. Of the gross proceeds derived from the lease or rental of tangible personal property, where the  
93 lease or rental of such property is an established business, or part of an established business, or the  
94 same is incidental or germane to such business.

95 3. Of the cost price of each item or article of tangible personal property stored in this  
96 Commonwealth for use or consumption in this Commonwealth.

97 4. Of the gross proceeds derived from the sale or charges for rooms, lodgings or accommodations  
98 furnished to transients as set out in the definition of "retail sale" in § 58.1-602.

99 5. Of the gross sales of any services which that are expressly stated as taxable within this chapter.

100 § 58.1-604. Imposition of use tax.

101 There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a  
102 tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of  
103 such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount  
104 of three and one-half percent before January 1, 2003, and five percent on and after January 1, 2003:

105 1. Of the cost price of each item or article of tangible personal property used or consumed in this  
106 Commonwealth. Tangible personal property which has been acquired for use outside this Commonwealth  
107 and subsequently becomes subject to the tax imposed hereunder shall be taxed on the basis of its cost  
108 price if such property is brought within this Commonwealth for use within six months of its acquisition;  
109 but if so brought within this Commonwealth six months or more after its acquisition, such property shall  
110 be taxed on the basis of the current market value (but not in excess of its cost price) of such property at  
111 the time of its first use within this Commonwealth. Such tax shall be based on such proportion of the  
112 cost price or current market value as the duration of time of use within this Commonwealth bears to the  
113 total useful life of such property (but it shall be presumed in all cases that such property will remain  
114 within this Commonwealth for the remainder of its useful life unless convincing evidence is provided to  
115 the contrary).

116 2. Of the cost price of each item or article of tangible personal property stored outside this  
117 Commonwealth for use or consumption in this Commonwealth.

118 3. A transaction taxed under § 58.1-603 shall not also be taxed under this section, nor shall the same  
119 transaction be taxed more than once under either section.

120 4. The use tax shall not apply with respect to the use of any article of tangible personal property

brought into this Commonwealth by a nonresident individual, visiting in Virginia, for his personal use, while within this Commonwealth.

5. The use tax shall not apply to out-of-state mail order catalog purchases totaling \$100 or less during any calendar year.

§ 58.1-604.1. Use tax on motor vehicles, machinery, tools and equipment brought into Virginia for use in performing contracts.

In addition to the use tax levied pursuant to § 58.1-604 and notwithstanding the provisions of § 58.1-611, a use tax is levied upon the storage or use of all motor vehicles, machines, machinery, tools or other equipment brought, imported or caused to be brought into this Commonwealth for use in constructing, building or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or water system, drainage or dredging system, railway system, reservoir or dam, hydraulic or power plant, transmission line, tower, dock, wharf, excavation, grading, or other improvement or structure, or any part thereof. The rate of tax is three and one-half percent *before January 1, 2003, and five percent on and after January 1, 2003*, on all tangible personal property except motor vehicles, which shall be taxed at the rate of three percent; aircraft, which shall be taxed at the rate of two percent; and watercraft, which shall be taxed at the rate of two percent with a maximum tax of \$1,000.

For purposes of this section the words "motor vehicle" means any vehicle which is self-propelled and designed primarily for use upon the highways, any vehicle which is propelled by electric power obtained from trolley wires but not operated upon rails, and any vehicle designed to run upon the highways which is pulled by a self-propelled vehicle, but shall not include any implement of husbandry, farm tractor, road construction or maintenance machinery or equipment, special mobile equipment or any vehicle designed primarily for use in work off the highway.

The tax shall be computed on the basis of such proportion of the original purchase price of such property as the duration of time of use in this Commonwealth bears to the total useful life thereof. For purposes of this section, the word "use" means use, storage, consumption and "stand-by" time occasioned by weather conditions, controversies or other causes. The tax shall be computed upon the basis of the relative time each item of equipment is in this Commonwealth rather than upon the basis of actual use. In the absence of satisfactory evidence as to the period of use intended in this Commonwealth, it will be presumed that such property will remain in this Commonwealth for the remainder of its useful life, which shall be determined in accordance with the experiences and practices of the building and construction trades.

A transaction taxed under §§ 58.1-604, 58.1-605, 58.1-1402, 58.1-1502, or § 58.1-2402 shall not also be taxed under this section, nor shall the same transaction be taxed more than once under any section.

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

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

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

"Cost," as applied to any public facility or to extensions or additions to any public facility, includes: (i) the purchase price of any public facility acquired by the municipality or the cost of acquiring all of the capital stock of the corporation owning the public facility and the amount to be paid to discharge any obligations in order to vest title to the public facility or any part of it in the municipality; (ii) expenses incident to determining the feasibility or practicability of the public facility; (iii) the cost of plans and specifications, surveys and estimates of costs and of revenues; (iv) the cost of all land, property, rights, easements and franchises acquired; (v) the cost of improvements, property or equipment; (vi) the cost of engineering, legal and other professional services; (vii) the cost of construction or reconstruction; (viii) the cost of all labor, materials, machinery and equipment; (ix) financing charges; (x) interest before and during construction and for up to one year after completion of construction; (xi) start-up costs and operating capital; (xii) payments by a municipality of its share of the cost of any multi-jurisdictional public facility; (xiii) administrative expense; (xiv) any amounts to be deposited to reserve or replacement funds; and (xv) other expenses as may be necessary or incident to the financing of the public facility. Any obligation or expense incurred by the public facility in connection with any of the foregoing items of cost may be regarded as a part of the cost.

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

"Public facility" means (i) any auditorium, coliseum, convention center, or conference center, which is owned by a Virginia county, city, town, authority, or other public entity and where exhibits, meetings, conferences, conventions, seminars, or similar public events may be conducted; (ii) any hotel which is owned by a foundation whose sole purpose is to benefit a state-supported university and which is attached to and is an integral part of such facility, together with any lands reasonably necessary for the conduct of the operation of such events; or (iii) any hotel which is attached to and is an integral part of such facility. However, such public facility must be located in a city with a population of at least 50,000 but no more than 52,500, at least 95,000 but no more than 105,000, or at least 130,000 but no more

than 135,000. Any property, real, personal, or mixed, which is necessary or desirable in connection with any such auditorium, coliseum, convention center, or conference center, including, without limitation, facilities for food preparation and serving, parking facilities, and administration offices, is encompassed within this definition. However, structures commonly referred to as "shopping centers" or "malls" shall not constitute a public facility hereunder. In addition, only a new public facility, or a public facility which will undergo a substantial and significant renovation or expansion, shall be eligible under subsection B of this section. A new public facility is one whose construction began after December 31, 1991. A substantial and significant renovation entails a project whose cost is at least fifty percent of the original cost of the facility being renovated and shall have begun after December 31, 1991. A substantial and significant expansion entails an increase in floor space of at least fifty percent over that existing in the preexisting facility and shall have begun after December 31, 1991.

"Sales tax revenues" means such tax collections realized under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) of Title 58.1, as limited herein. "Sales tax revenues" does not include the revenue generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly which shall be paid to the Transportation Trust Fund as defined in § 33.1-23.03:1, ~~nor shall it include the one percent of the state sales and use tax revenue distributed among the counties and cities of the Commonwealth pursuant to § 58.1-638 D on the basis of school age population, nor shall it include the one and one-half percent sales and use tax increase effective January 1, 2003.~~

B. Any municipality which has issued bonds (i) after December 31, 1991, but before January 1, 1996, (ii) on or after January 1, 1998, but before July 1, 1999, (iii) on or after January 1, 1999, but before July 1, 2001, or (iv) on or after July 1, 2000, but before July 1, 2003, to pay the cost, or portion thereof, of any public facility shall be entitled to all sales tax revenues generated by transactions taking place in such public facility. Such entitlement shall continue for the lifetime of such bonds, which entitlement shall not exceed thirty years, and all such sales tax revenues shall be applied to repayment of the bonds. The State Comptroller shall remit such sales tax revenues to the municipality on a quarterly basis, subject to such reasonable processing delays as may be required by the Department of Taxation to calculate the actual net sales tax revenues derived from the public facility. The State Comptroller shall make such remittances to eligible municipalities, as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.). No such remittances shall be made until construction is completed and, in the case of a renovation or expansion, until the governing body of the municipality has certified that the renovation or expansion is completed.

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

§ 58.1-611.1. Rate of tax on sales of food purchased for human consumption; Food Tax Reduction Program.

A. Subject to the conditions of subsections D and E, the tax imposed by §§ 58.1-603 and 58.1-604 on food purchased for human consumption shall be levied and distributed as follows:

1. From January 1, 2000, through March 31, 2001, the tax rate on such food shall be three percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638, (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C and D of § 58.1-638, and (iii) the revenue from the tax at the rate of one and one-half percent shall be used for general fund purposes.

2. From April 1, 2001, through March 31, 2002, the tax rate on such food shall be two and one-half percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638, (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C and D of § 58.1-638, and (iii) the revenue from the tax at the rate of one percent shall be used for general fund purposes.

3. From April 1, 2002, through March 31, 2003, the tax rate on such food shall be two percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638, (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C and D of § 58.1-638, and (iii) the revenue from the tax at the rate of one-half percent shall be used for general fund purposes.

4. On and after April 1, 2003, the tax rate on such food shall be one and one-half percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax

at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638 and (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C and D of § 58.1-638.

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

C. As used in this section, "food purchased for human consumption" has the same meaning as "food" defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that Act, except it shall not include seeds and plants which produce food for human consumption.

D. Notwithstanding the tax rates set forth in subsection A, the rate of tax on sales of food purchased for human consumption for any twelve-month period beginning on or after April 1, 2001, shall not be reduced below the rate then in effect for the Commonwealth's current fiscal year if:

1. ~~Actual~~ *actual* general fund revenues for the fiscal year preceding a fiscal year in which a rate reduction is contemplated in subsection A do not exceed the official general fund revenue estimates for such preceding fiscal year, as estimated in the most recently enacted and approved general appropriation act, by at least one percent; or

2. ~~Any of the events listed in subsection C of § 58.1-3524 or subsection B of § 58.1-3536 have occurred during the then current fiscal year.~~

E. If the tax rate on food purchased for human consumption remains the same for the period January 1, 2000, through March 31, 2001, and the subsequent twelve-month period beginning on April 1, 2001, or with respect to any consecutive twelve-month periods beginning on and after April 1, 2001, the tax rate on such food shall remain the same unless ~~none of the conditions described~~ *the condition described* in subsection D ~~have~~ *has not* occurred, in which event the tax rate on food purchased for human consumption for the immediately following twelve-month period shall be equal to the next lowest tax rate listed in subsection A.

F. There is hereby created on the books of the Comptroller a nonreverting fund entitled the Food Tax Reserve Fund which shall be used solely for the statutory purposes of the Food Tax Reduction Program as established by this section, and as may be provided for in the general appropriation act. For the purpose of the Comptroller's preliminary and final annual reports required by § 2.1-207, all balances remaining in the Fund on June 30 of each year shall be considered a portion of the fund balance of the general fund of the state treasury.

§ 58.1-614. Vending machine sales.

A. Notwithstanding the provisions of §§ 58.1-603 and 58.1-604, whenever a dealer makes sales of tangible personal property through vending machines, or in any other manner making collection of the tax impractical, as determined by the Tax Commissioner, such dealer shall be required to report his wholesale purchases for sale at retail from vending machines and shall be required to remit an amount based on four and one-half percent of such wholesale purchases *before January 1, 2003, and six percent of such wholesale purchases on and after January 1, 2003.*

B. Notwithstanding the provisions of §§ 58.1-605 and 58.1-606, dealers making sales of tangible personal property through vending machines shall report and remit the one percent local sales and use tax computed as provided in subsection A of this section.

C. The provisions of subsections A and B of this section shall not be applicable to vending machine operators all of whose machines are under contract to nonprofit organizations. Such operators shall report only the gross receipts from machines selling items for more than ten cents and shall be required to remit an amount based on a percentage of their remaining gross sales established by the Tax Commissioner to take into account the inclusion of sales tax.

D. Notwithstanding any other provisions in this section or § 58.1-628, when the Tax Commissioner determines that it is impractical to collect the tax in the manner provided by those sections, such dealer shall be required to remit an amount based on a percentage of gross receipts which takes into account the inclusion of the sales tax.

E. The provisions of this section shall not be applicable to any dealer who fails to maintain records satisfactory to the Tax Commissioner. A dealer making sales of tangible personal property through vending machines shall obtain a certificate of registration under § 58.1-613 in relevant form for each county or city in which he has machines.

§ 58.1-627. Bracket system for state tax.

The following brackets of prices shall be used for the collection of the tax imposed by this chapter prior to January 1, 2003:

\$0.00	to	\$0.14	no	tax
.15	to	.42	1¢	tax
.43	to	.71	2¢	tax
.72	to	.99	3¢	tax

305	1.00	to	1.28	4¢	tax
306	1.29	to	1.57	5¢	tax
307	1.58	to	1.85	6¢	tax
308	1.86	to	2.14	7¢	tax
309	2.15	to	2.42	8¢	tax
310	2.43	to	2.71	9¢	tax
311	2.72	to	2.99	10¢	tax
312	3.00	to	3.28	11¢	tax
313	3.29	to	3.57	12¢	tax
314	3.58	to	3.85	13¢	tax
315	3.86	to	4.14	14¢	tax
316	4.15	to	4.42	15¢	tax
317	4.43	to	4.71	16¢	tax
318	4.72	to	5.00	17¢	tax

319  
 320 On transactions over five dollars, the tax shall be computed at three and one-half percent *before*  
 321 *January 1, 2003, and five percent on and after January 1, 2003*, one-half cent or more being treated as  
 322 one cent. If a dealer can show to the satisfaction of the Tax Commissioner that more than eighty-five  
 323 percent of the total dollar volume of his gross taxable sales during the taxable month was from  
 324 individual sales at prices of ten cents or less each, and that he was unable to adjust his prices in such  
 325 manner as to prevent the economic incidence of the sales tax from falling on him, the Tax  
 326 Commissioner shall determine the proper tax liability of the dealer based on that portion of the dealer's  
 327 gross taxable sales which was from sales at prices of eleven cents or more.

328 § 58.1-628. Bracket system for combined state and local tax.

329 The following brackets of prices shall be used for the collection of the combined state and local tax  
 330 *prior to January 1, 2003:*

331	\$0.00	to	\$0.11	no	tax
332	.12	to	.33	1¢	tax
333	.34	to	.55	2¢	tax
334	.56	to	.77	3¢	tax
335	.78	to	.99	4¢	tax
336	1.00	to	1.22	5¢	tax
337	1.23	to	1.44	6¢	tax
338	1.45	to	1.66	7¢	tax
339	1.67	to	1.88	8¢	tax
340	1.89	to	2.11	9¢	tax
341	2.12	to	2.33	10¢	tax
342	2.34	to	2.55	11¢	tax
343	2.56	to	2.77	12¢	tax
344	2.78	to	2.99	13¢	tax
345	3.00	to	3.22	14¢	tax
346	3.23	to	3.44	15¢	tax
347	3.45	to	3.66	16¢	tax
348	3.67	to	3.88	17¢	tax
349	3.89	to	4.11	18¢	tax
350	4.12	to	4.33	19¢	tax
351	4.34	to	4.55	20¢	tax
352	4.56	to	4.77	21¢	tax
353	4.78	to	5.00	22¢	tax

354  
 355 On transactions over five dollars, the tax shall be computed at four and one-half percent *before*  
 356 *January 1, 2003, and six percent on and after January 1, 2003*, one half cent or more being treated as  
 357 one cent. The foregoing bracket system shall not relieve the dealer from the duty and liability to remit  
 358 an amount equal to four and one-half percent of his gross taxable sales *before January 1, 2003, and six*  
 359 *percent on and after January 1, 2003*, as provided in this chapter. If the dealer, however, can show to  
 360 the satisfaction of the Tax Commissioner that more than eighty-five percent of the total dollar volume of  
 361 his gross taxable sales during the taxable month was from individual sales at prices of ten cents or less  
 362 each and that he was unable to adjust his prices in such manner as to prevent the economic incidence of

the sales tax from falling on him, the Tax Commissioner shall determine the proper tax liability of the dealer based on that portion of the dealer's gross taxable sales which was from sales at prices of eleven cents or more.

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

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

1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided in this section, to the Transportation Trust Fund as defined in § 33.1-23.03:1. Of the funds paid to the Transportation Trust Fund, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund as provided in this section; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund as provided in this section; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit Fund as provided in this section. The Fund's share of such net revenue shall be computed as an estimate of the net revenue to be received into the state treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall be made to the Fund on the last day of each month.

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

a. The Commonwealth Port Fund shall be established on the books of the Comptroller and the funds remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it. Funds may be paid to any authority, locality or commission for the purposes hereinafter specified.

b. The amounts allocated pursuant to this section shall be allocated by the Commonwealth Transportation Board to the Board of Commissioners of the Virginia Port Authority to be used to support port capital needs and the preservation of existing capital needs of all ocean, river, or tributary ports within the Commonwealth.

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

3. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be 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: sixty percent to MWAA, up to a maximum annual amount of two million dollars, and forty 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.

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

424 shall remain in the Fund. Interest earned on such funds shall be credited to the Fund. Funds may be  
425 paid to any local governing body, transportation district commission, or public service corporation for  
426 the purposes hereinafter specified.

427 b. The amounts allocated pursuant to this section may be used to support a maximum of fifty percent  
428 of the public transportation administrative costs and up to eighty percent of the costs of ridesharing  
429 programs borne by the locality. These amounts may be used to support up to ninety-five percent of the  
430 local or nonfederal share of capital project costs for public transportation and ridesharing equipment,  
431 facilities, and associated costs. Capital costs may include debt service payments on local or agency  
432 transit bonds. Further, these amounts may be used to support a maximum of ninety-five percent of the  
433 costs borne by the locality for the purchase of fuels, lubricants, tires and maintenance parts and supplies  
434 for public transportation. The term "borne by the locality" means the local share eligible for state  
435 assistance consisting of costs in excess of the sum of fares and other operating revenues plus federal  
436 assistance received by the locality.

437 c. Commonwealth Mass Transit Fund revenue shall be allocated by the Commonwealth  
438 Transportation Board as follows:

439 (1) Funds for special programs, which shall include ridesharing, experimental transit, and technical  
440 assistance, shall not exceed 1.5 percent of the Fund.

441 (2) The Board may allocate these funds to any locality or planning district commission to finance up  
442 to eighty percent of the local share of all costs associated with the development, implementation, and  
443 continuation of ridesharing programs.

444 (3) Funds allocated for experimental transit projects may be paid to any local governing body,  
445 transportation district commission, or public corporation or may be used directly by the Department of  
446 Rail and Public Transportation for the following purposes:

447 (a) To finance up to ninety-five percent of the capital costs related to the development,  
448 implementation and promotion of experimental public transportation and ridesharing projects approved  
449 by the Board.

450 (b) To finance up to ninety-five percent of the operating costs of experimental mass transportation  
451 and ridesharing projects approved by the Board for a period of time not to exceed twelve months.

452 (c) To finance up to ninety-five percent of the cost of the development and implementation of any  
453 other project designated by the Board where the purpose of such project is to enhance the provision and  
454 use of public transportation services.

455 d. Funds allocated for public transportation promotion and operation studies may be paid to any local  
456 governing body, planning district commission, transportation district commission, or public transit  
457 corporation, or may be used directly by the Department of Rail and Public Transportation for the  
458 following purposes and aid of public transportation services:

459 (1) At the approval of the Board to finance a program administered by the Department of Rail and  
460 Public Transportation designed to promote the use of public transportation and ridesharing throughout  
461 Virginia.

462 (2) To finance up to fifty percent of the local share of public transportation operations planning and  
463 technical study projects approved by the Board.

464 e. At least 73.5 percent of the Fund shall be distributed to each transit property in the same  
465 proportion as its operating expenses bear to the total statewide operating expenses and shall be spent for  
466 the purposes specified in subdivision 4 b.

467 f. The remaining twenty-five percent shall be distributed for capital purposes on the basis of  
468 ninety-five percent of the nonfederal share for federal projects and ninety-five percent of the total costs  
469 for nonfederal projects. In the event that total capital funds available under this subdivision are  
470 insufficient to fund the complete list of eligible projects, the funds shall be distributed to each transit  
471 property in the same proportion that such capital expenditure bears to the statewide total of capital  
472 projects.

473 g. There is hereby created in the Department of the Treasury a special nonreverting fund known as  
474 the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the  
475 Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be  
476 established on the books of the Comptroller and consist of such moneys as are appropriated to it by the  
477 General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given,  
478 bequeathed, granted, or otherwise made available to the Commonwealth Transit Capital Fund. Any funds  
479 remaining in the Commonwealth Transit Capital Fund at the end of the biennium shall not revert to the  
480 general fund, but shall remain in the Commonwealth Transit Capital Fund. Interest earned on funds  
481 within the Commonwealth Transit Capital Fund shall remain in and be credited to the Commonwealth  
482 Transit Capital Fund. Proceeds of the Commonwealth Transit Capital Fund may be paid to any political  
483 subdivision, another public entity created by an act of the General Assembly, or a private entity as  
484 defined in § 56-557 and for purposes as enumerated in subdivision 4c of § 33.1-269 or expended by the  
485 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. Projects financed by the Commonwealth Transit Capital Fund shall receive local, regional or private funding for at least twenty percent of the nonfederal share of the total project cost.

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

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

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

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

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

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

D. The net revenue so distributable among the counties and cities shall be apportioned and distributed upon the basis as certified to the Comptroller by the Department of Education, of the number of children in each county and city according to the most recent statewide census of school population taken by the Department of Education pursuant to § 22.1-284, as adjusted in the manner hereinafter provided. No special school population census, other than a statewide census, shall be used as the basis of apportionment and distribution except that in any calendar year in which a statewide census is not reported, the Department of Education shall adjust such school population figures by the same percent of annual change in total population estimated for each locality by The Center for Public Service. The revenue so apportionable and distributable is hereby appropriated to the several counties and cities for maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the operation of the public schools, which shall be considered as funds raised from local resources. In any county, however, wherein is situated any incorporated town constituting a school division, the county treasurer shall pay into the town treasury for maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the operation of the public schools, the proper proportionate amount received by him in the ratio that the school population of such town bears to the school population of the entire county. If the school population of any city or of any town constituting a school division is increased by the annexation of territory since the last preceding school population census, such increase shall, for the purposes of this section, be added to the school population of such city or town as shown by the last such census and a proper reduction made in the school population of the county or counties from which the annexed territory was acquired.

E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a two percent sales and use tax *before January 1, 2003, and a three and one-half percent sales and use tax on and after January 1, 2003*, up to an annual amount of \$13 million, collected from the sales of hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment, wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used, in part, to defray the cost of law enforcement. Not later than thirty 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 § 29.1-101.1, 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

547 balance in the Capital Improvement Fund is less than \$35 million.

548 F. If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall be  
549 corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.

550 G. *Except as provided in subsection E, the sales and use tax revenue generated by the one and*  
551 *one-half percent sales and use tax increase effective January 1, 2003, shall be used to make the*  
552 *payments under Chapter 35.2 of this title.*

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

#### 556 CHAPTER 35.2.

#### 557 PAYMENTS IN LIEU OF PERSONAL PROPERTY TAXATION.

558 § 58.1-3537. *Payments to localities in lieu of tangible personal property taxation.*

559 A. *For purposes of this section:*

560 "Base year amount" means (i) for a county, fifteen percent of its total local tax revenues collected  
561 for the tax year ending in calendar year 1997; (ii) for a city, eleven percent of its total local tax  
562 revenues collected for the tax year ending in calendar year 1997; and (iii) for a town, five percent of its  
563 total local tax revenues collected for the tax year ending in calendar year 1997. The Auditor of Public  
564 Accounts shall determine the total local tax revenues for all counties, cities, and towns for their  
565 respective tax year ending in calendar year 1997.

566 "Certified sales and use tax revenues" means the amount of sales and use tax revenues collected for  
567 the fiscal year pursuant to Chapter 6 of this title (§ 58.1-600 et seq.), but excluding any revenues  
568 collected under the authority of § 58.1-605 or § 58.1-606, as certified by the Comptroller.

569 "Funding amount" means for a calendar year the sum of the total amount paid to the county, city, or  
570 town in the preceding calendar year pursuant to the provisions of this section adjusted by (i) for  
571 counties, fifteen percent of any increase in the certified sales and use tax revenues for the fiscal year  
572 ending in the current calendar year over the certified sales and use tax revenues for the preceding fiscal  
573 year; (ii) for cities, eleven percent of any increase in the certified sales and use tax revenues for the  
574 fiscal year ending in the current calendar year over the certified sales and use tax revenues for the  
575 preceding fiscal year; and (iii) for towns, five percent of any increase in the certified sales and use tax  
576 revenues for the fiscal year ending in the current calendar year over the certified sales and use tax  
577 revenues for the preceding fiscal year.

578 "Local tax revenues" means but is not limited to moneys collected from taxes, permits, fees, licenses,  
579 fines, forfeitures, charges for services, and revenues from use of money and property, but shall not  
580 include funding from the Commonwealth or the United States government.

581 B. *The payments to localities under this section shall be in lieu of any other payments by the*  
582 *Commonwealth to localities relating to motor vehicles and boats.*

583 C. *For calendar years beginning on and after January 1, 2003, the Comptroller shall pay from the*  
584 *general fund to each county, city, and town its respective funding amount for the calendar year as*  
585 *determined under this section. The Comptroller shall calculate the funding amount that would have been*  
586 *paid to each county, city, or town for calendar years 1997 through 2002, as if the provisions of this*  
587 *section had been effective for such years, for the sole purpose of determining funding amounts beginning*  
588 *in calendar year 2003. In making such calculations, the Comptroller shall use the respective county's,*  
589 *city's, or town's base year amount as its funding amount for calendar year 1997. The Commonwealth*  
590 *shall not be required to pay any funding amount to any locality for calendar years 1997 through 2002.*

591 *The Comptroller shall pay the funding amount in monthly increments over the twelve months of the*  
592 *respective calendar year. The monthly amount received by a county, city, or town in the current*  
593 *calendar year shall be equal to at least one-twelfth of the aggregate funding amount for such county,*  
594 *city, or town for the previous calendar year.*

595 § 58.1-3538. *Estimate of funding amounts to be made by the Commonwealth.*

596 *Beginning in calendar year 2002, on December 1 of each year, the Comptroller shall estimate the*  
597 *funding amount to be paid by the Commonwealth for the succeeding calendar year and shall report*  
598 *such estimate to the Governor and the chairmen of the Senate Committee on Finance and the House*  
599 *Committee on Appropriations.*

600 § 58.1-3667. *Motor vehicles and boats exempt from tangible personal property taxation.*

601 *Pursuant to Article X, Section 6 (a) (8) of the Constitution of Virginia, motor vehicles, as defined in*  
602 *§ 46.2-100, and boats are exempt from tangible personal property taxation.*

603 § 58.1-3912. *Treasurers to mail certain bills to taxpayers; penalties.*

604 A. *The treasurer of every city and county shall, as soon as reasonably possible in each year, but not*  
605 *later than fourteen days prior to the due date of the taxes, send or cause to be sent by United States*  
606 *mail to each taxpayer assessed with taxes and levies for that year a bill or bills setting forth the amounts*  
607 *due. The treasurer may elect not to send a bill amounting to twenty dollars or less as shown by an*  
608 *assessment book in such treasurer's office. The treasurer may employ the services of a mailing service or*

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

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

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

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

E. Beginning with tax year 1999, in addition to all other information currently appearing on tangible personal property tax bills, each such bill shall state on its face (i) whether the vehicle is a qualifying vehicle as defined in § 58.1-3523; (ii) a deduction for the amount to be paid by the Commonwealth as determined by § 58.1-3524; (iii) the vehicle's registration number pursuant to § 46.2-604; (iv) the amount of tangible personal property tax levied on the vehicle; and (v) if the locality prorates personal property tax pursuant to § 58.1-3516, the number of months for which a bill is being sent.

F. Beginning with tax year 1999 and through the end of tax year 2002, the treasurer shall include a statement, prepared by the Department, with or as part of the tangible personal property tax bills for such qualifying vehicles. The statement shall explain how the deduction for the percentage of the reimbursable amount was calculated, how the deduction shall be calculated in future years, and the taxpayer's liability for tangible personal property taxes on qualifying vehicles.

2. That the provisions of this act shall become effective on January 1, 2003, only if a Constitutional amendment to Article X, Section 6 of the Constitution of Virginia making motor vehicles and boats exempt from tangible personal property taxation is ratified by a majority of voters voting on such measure at the election directed by law to be held on Tuesday after the first Monday in November 2002. If such Constitutional amendment is ratified, (i) Chapter 35.1 of Title 58.1 and §§ 15.2-1636.20 and 58.1-3916.01 of the Code of Virginia are repealed effective January 1, 2003, and (ii) the Department of Taxation shall promulgate regulations, in accordance with Administrative Process Act (§ 9-6.14:1), establishing brackets of prices and associated state and combined state and local sales and use taxes on transactions of five dollars or less.