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SENATE BILL NO. 170

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Williams
on February 15, 2002)

(Patron Prior to Substitute—Senator Cogan)

A *BILL to amend and reenact §§ 58.1-602, 58.1-603, 58.1-604, 58.1-604.1, 58.1-605, 58.1-606, 58.1-608.3, 58.1-611.1, 58.1-614, 58.1-626, 58.1-638 and 58.1-3833 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 33.1-221.1:7, 58.1-604.4, 58.1-604.5 and 58.1-628.1; to repeal Article 22 (§§ 58.1-540 through 58.1-549) of Chapter 3 of Title 58.1, and §§ 58.1-627 and 58.1-628, relating to sales and use taxes in counties and cities of the Commonwealth that (i) were part of a planning district, established pursuant to § 15.2-4203, whose entire planning district geographic boundaries were, as of January 1, 2002, designated as nonattainment for the one-hour ozone standard pursuant to the federal Clean Air Act Amendments of 1990 or (ii) were redesignated to attainment status for such one-hour ozone standard on or before July 28, 1997, and were required, as of January 1, 2002, to have an air quality maintenance plan in effect for ozone pursuant to the federal Clean Air Act Amendments of 1990; dedicating revenues from such taxes for transportation projects for such counties and cities; and relating to an additional one-half of one percent sales and use tax in all jurisdictions of the Commonwealth and distributing the revenues attributable to such additional one-half of one percent sales and use tax to counties and cities for expenses incurred in the operation of public schools and capital projects for public schools.*

Whereas, the nonattainment designation under the federal Clean Air Act for one-hour ozone indicates, among other things, that the citizens of such area are at risk for respiratory health problems and that all localities in such area are in jeopardy of losing federal highway funds; and

Whereas, the nonattainment designation for one-hour ozone is directly related to the severity of traffic congestion in an area; and

Whereas, the nonattainment designation for one-hour ozone and the severity of traffic congestion are credible threats to the quality of life and economic independence of the residents of such area; and

Whereas, the Hampton Roads Planning District and the Eighth Planning District were created pursuant to the Regional Cooperation Act (§ 15.2-4200 et seq.); and

Whereas, one purpose of the Regional Cooperation Act pursuant to § 15.2-4201 is to "improve public health, safety, convenience and welfare, and to provide for the social, economic and physical development of communities and metropolitan areas of the Commonwealth on a sound and orderly basis, within a governmental framework and economic environment which will foster constructive growth and efficient administration"; and

Whereas, eleven of the fifteen cities and counties comprising the Hampton Roads Planning District were at one time designated as nonattainment for the one-hour ozone standard pursuant to the federal Clean Air Act Amendments of 1990; and

Whereas, the Hampton Roads Planning District Commission has reported that in 2000 there were approximately 300 days in which capacity on the Elizabeth River downtown tunnel was exceeded, approximately 220 days in which capacity on the Hampton Roads Bridge-Tunnel was exceeded, and approximately 130 days in which capacity on the Elizabeth River midtown tunnel was exceeded; and

Whereas, the Hampton Roads Planning District Commission has reported that the number of vehicles registered in Hampton Roads from 1992 through 1999 grew at an average annual rate that exceeded the average annual rate of growth for all vehicles registered in the Commonwealth; and

Whereas, the Hampton Roads Planning District Commission has reported that there were approximately 571 congested lane-miles in Hampton Roads in 2000 and approximately 670 congested lane-miles in 2001; and

Whereas, there is a serious and credible risk that many of the eleven counties and cities could once again be designated nonattainment for one-hour ozone unless current traffic congestion is mitigated; and

Whereas, the entire geographic boundaries of the Eighth Planning District suffer from nonattainment for one-hour ozone and severe traffic congestion; and

Whereas, pursuant to Chapter 48.1 (§ 15.2-4816 et seq.) of Title 15.2, the Northern Virginia Transportation Authority, the General Assembly has determined that the development of an integrated and efficient transportation system, composed of transit facilities, public highways, and other modes of transport, is necessary for the continued prosperity and quality of life of the citizens in the counties and cities of the Eighth Planning District; and

Whereas, the General Assembly has also determined pursuant to Chapter 48.1 that the most advisable means of planning and developing a transportation system required for the safety, comfort, and convenience of the citizens of such counties and cities and for the economical utilization of public funds

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60 is to create a transportation authority, the Northern Virginia Transportation Authority, comprised of,
61 amongst other persons, representatives of such counties and cities; and

62 Whereas, the General Assembly has vested the Northern Virginia Transportation Authority with the
63 powers necessary to construct such transportation system, including the power to issue debt; and

64 Whereas, under § 15.2-4206 the Hampton Roads Planning District Commission has been authorized
65 to issue bonds as one means of facilitating projects that are regional in scope, which projects may
66 include regional transportation projects; and

67 Whereas, by affirming the provisions of this act the General Assembly is reconfirming the
68 Commonwealth's long-standing policy that safe, adequate, and efficient transportation systems cannot be
69 achieved on a locality by locality basis, but planning and action on a regional basis is required; and

70 Whereas, as the counties and cities of the Eighth Planning District and eleven of the fifteen cities
71 and counties comprising the Hampton Roads Planning District are, or were at one time, designated
72 nonattainment for one-hour ozone, there is a commonality of interest and a commonality of ability to act
73 in such regions because the resulting serious regional problems coincide with previously determined
74 regions where the rectifying transportation projects in each region are naturally connected; and

75 Whereas, the current designation of nonattainment for one-hour ozone for all of the counties and
76 cities of the Eighth Planning District and the credible risk that many of the counties and cities in the
77 Hampton Roads Planning District could once again be designated nonattainment for one-hour ozone has
78 created a crisis that requires bold and immediate action; and

79 Whereas, along with the regional transportation system in the Commonwealth, there is a state of
80 crisis in the public education system of the Commonwealth that also requires immediate action; and

81 Whereas, the number of students enrolled in many of Virginia's public schools exceeds the student
82 capacity for such schools; and

83 Whereas, as a result, classrooms have become crowded, which has hampered the ability of Virginia's
84 public school teachers to impart to students the basic skills required for employment; and

85 Whereas, many of Virginia's public schools are dilapidated and are beyond repair while others are in
86 need of major repairs; and

87 Whereas, the General Assembly finds that Virginia's local governments and public school divisions
88 are in the best position to assess and address the needs of Virginia's public schools; and

89 Whereas, the General Assembly affirms that a high-quality transportation and education system are
90 fundamental for the continued prosperity and quality of life of the citizens of the Commonwealth; now,
91 therefore,

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

93 **1. That §§ 58.1-602, 58.1-603, 58.1-604, 58.1-604.1, 58.1-605, 58.1-606, 58.1-608.3, 58.1-611.1,**
94 **58.1-614, 58.1-626, 58.1-638 and 58.1-3833 of the Code of Virginia are amended and reenacted and**
95 **that the Code of Virginia is amended by adding sections numbered 33.1-221.1:7, 58.1-604.4,**
96 **58.1-604.5 and 58.1-628.1 as follows:**

97 *§ 33.1-221.1:7. Regional Transportation District Program.*

98 *A. For purposes of this section, unless the context requires a different meaning:*

99 *"Eastern Virginia Transportation District" means the region constituted by the counties and cities*
100 *described in subsections A and B of § 58.1-604.5.*

101 *"Planning District Commission" means the Hampton Roads Planning District Commission created*
102 *pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Subtitle IV of Title 15.2.*

103 *B. The General Assembly declares it to be in the public interest that the economic development*
104 *needs, economic growth potential, and quality of life of the residents of various counties and cities in*
105 *the eastern part of the Commonwealth be addressed by a special transportation program to provide for*
106 *the costs of providing an adequate, modern, safe and efficient transportation network in such counties*
107 *and cities, which shall be known as the Eastern Virginia Regional Transportation Program (the*
108 *Program), including, without limitation, environmental and engineering studies, rights-of-way*
109 *acquisition, construction, improvements to all modes of transportation, and financing costs. The*
110 *Program consists of the following projects: Hampton Roads Third Crossing ((i) from I-664/I-64*
111 *Interchange (Peninsula) to Bowers Hill (I-664, I-64, I-264 Interchange), (ii) I-664 to I-564 Connector,*
112 *and (iii) Craney Island to the Western Freeway (Route 164)); U.S. Route 460 (from Bowers Hill (I-664,*
113 *I-64, I-264 Interchange) to Zuni); I-64 widening (from Bland Boulevard Interchange to James City/New*
114 *Kent County lines); Southeastern Parkway and Greenbelt (from I-64 to I-264); Midtown Tunnel/Martin*
115 *Luther King Freeway extension ((i) parallel Midtown Tunnel and (ii) Martin Luther King Freeway*
116 *extension to I-264); and Passenger Rail/Magnetic Levitation Service and Support Bus Services in the*
117 *Eastern Virginia Transportation District.*

118 *C. The Planning District Commission shall take such steps as are necessary for the projects and*
119 *program to be constructed, subject to it having sufficient funds to pay the costs for the construction of a*
120 *project or projects, or any part thereof, as such costs become due and payable. Funds made available*
121 *by the Planning District Commission to pay such costs may include, but are not limited to, the net*

proceeds of Planning District Commission bonds, including any premium received on the sale thereof, and any federal, local or private funds or any other moneys that may be made available for such purpose.

The Planning District Commission may enter into a contract or other agreement with any state or local agency, authority, commission or other person or entity to provide for the construction of a project or projects, or any part thereof.

§ 58.1-602. Definitions.

As used in this chapter, unless the context clearly shows otherwise, the term or phrase:

"Advertising" means the planning, creating, or placing of advertising in newspapers, magazines, billboards, broadcasting and other media, including, without limitation, the providing of concept, writing, graphic design, mechanical art, photography and production supervision. Any person providing advertising as defined herein shall be deemed to be the user or consumer of all tangible personal property purchased for use in such advertising.

"Amplification, transmission and distribution equipment" means, but is not limited to, production, distribution, and other equipment used to provide Internet-access services, such as computer and communications equipment and software used for storing, processing and retrieving end-user subscribers' requests.

"Business" includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either directly or indirectly.

"Cost price" means the actual cost of an item or article of tangible personal property computed in the same manner as the sales price as defined in this section without any deductions therefrom on account of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever.

"Custom program" means a computer program which is specifically designed and developed only for one customer. The combining of two or more prewritten programs does not constitute a custom computer program. A prewritten program that is modified to any degree remains a prewritten program and does not become custom.

"Distribution" means the transfer or delivery of tangible personal property for use, consumption, or storage by the distributee, and the use, consumption, or storage of tangible personal property by a person who has processed, manufactured, refined, or converted such property, but does not include the transfer or delivery of tangible personal property for resale or any use, consumption, or storage otherwise exempt under this chapter.

"Gross proceeds" means the charges made or voluntary contributions received for the lease or rental of tangible personal property or for furnishing services, computed with the same deductions, where applicable, as for sales price as defined in this section over the term of the lease, rental, service, or use, but not less frequently than monthly.

"Gross sales" means the sum total of all retail sales of tangible personal property or services as defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" shall not include the federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the Internal Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the article, or the Virginia retail sales or use tax, or any sales or use tax imposed by any county or city under § 58.1-605 or § 58.1-606 or any tax imposed pursuant to § 58.1-604.4 or § 58.1-604.5.

"Import" and "imported" are words applicable to tangible personal property imported into this Commonwealth from other states as well as from foreign countries, and "export" and "exported" are words applicable to tangible personal property exported from this Commonwealth to other states as well as to foreign countries.

"In this Commonwealth" or "in the Commonwealth" means within the limits of the Commonwealth of Virginia and includes all territory within these limits owned by or ceded to the United States of America.

"Internet" means collectively, the myriad of computer and telecommunications facilities, which comprise the interconnected world-wide network of computer networks.

"Internet service" means a service that enables users to access proprietary and other content, information electronic mail, and the Internet as part of a package of services sold to end-user subscribers.

"Lease or rental" means the leasing or renting of tangible personal property and the possession or use thereof by the lessee or renter for a consideration, without transfer of the title to such property.

"Manufacturing, processing, refining, or conversion" includes the production line of the plant starting with the handling and storage of raw materials at the plant site and continuing through the last step of production where the product is finished or completed for sale and conveyed to a warehouse at the production site, and also includes equipment and supplies used for production line testing and quality control. The term "manufacturing" shall also include the necessary ancillary activities of newspaper and magazine printing when such activities are performed by the publisher of any newspaper or magazine

183 for sale daily or regularly at average intervals not exceeding three months.

184 The determination whether any manufacturing, mining, processing, refining or conversion activity is
185 industrial in nature shall be made without regard to plant size, existence or size of finished product
186 inventory, degree of mechanization, amount of capital investment, number of employees or other factors
187 relating principally to the size of the business. Further, "industrial in nature" shall include, but not be
188 limited to, those businesses classified in codes 10 through 14 and 20 through 39 published in the
189 Standard Industrial Classification Manual for 1972 and any supplements issued thereafter.

190 "Modular building" means, but shall not be limited to, single and multifamily houses, apartment
191 units, commercial buildings, and permanent additions thereof, comprised of one or more sections that are
192 intended to become real property, primarily constructed at a location other than the permanent site, built
193 to comply with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.) as regulated by the
194 Virginia Department of Housing and Community Development, and shipped with most permanent
195 components in place to the site of final assembly. For purposes of this chapter, a modular building shall
196 not include a mobile office as defined in § 58.1-2401 or any manufactured building subject to and
197 certified under the provisions of the National Manufactured Housing Construction and Safety Standards
198 Act of 1974 (42 U.S.C. § 5401 et seq.).

199 "Modular building manufacturer" means a person or corporation who owns or operates a
200 manufacturing facility and is engaged in the fabrication, construction and assembling of building
201 supplies and materials into modular buildings, as defined in this section, at a location other than at the
202 site where the modular building will be assembled on the permanent foundation and may or may not be
203 engaged in the process of affixing the modules to the foundation at the permanent site.

204 "Modular building retailer" means any person who purchases or acquires a modular building from a
205 modular building manufacturer, or from another person, for subsequent sale to a customer residing
206 within or outside of the Commonwealth, with or without installation of the modular building to the
207 foundation at the permanent site.

208 "Motor vehicle" means a "motor vehicle" as defined in § 58.1-2401, taxable under the provisions of
209 the Virginia Motor Vehicles Sales and Use Tax Act (§ 58.1-2400 et seq.) and upon the sale of which all
210 applicable motor vehicle sales and use taxes have been paid.

211 "Occasional sale" means a sale of tangible personal property not held or used by a seller in the
212 course of an activity for which he is required to hold a certificate of registration, including the sale or
213 exchange of all or substantially all the assets of any business and the reorganization or liquidation of
214 any business, provided such sale or exchange is not one of a series of sales and exchanges sufficient in
215 number, scope and character to constitute an activity requiring the holding of a certificate of registration.

216 "Open video system" means an open video system authorized pursuant to 47 U.S.C. § 573 and, for
217 purposes of this chapter only, shall also include Internet service regardless of whether the provider of
218 such service is also a telephone common carrier.

219 "Person" includes any individual, firm, copartnership, cooperative, nonprofit membership corporation,
220 joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver,
221 auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit, body
222 politic or political subdivision, whether public or private, or quasi-public, and the plural of such term
223 shall mean the same as the singular.

224 "Prewritten program" means a computer program that is prepared, held or existing for general or
225 repeated sale or lease, including a computer program developed for in-house use and subsequently sold
226 or leased to unrelated third parties.

227 "Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in
228 the form of tangible personal property or services taxable under this chapter, and shall include any such
229 transaction as the Tax Commissioner upon investigation finds to be in lieu of a sale. All sales for resale
230 must be made in strict compliance with regulations applicable to this chapter. Any dealer making a sale
231 for resale which is not in strict compliance with such regulations shall be personally liable for payment
232 of the tax.

233 The terms "retail sale" and a "sale at retail" shall specifically include the following: (i) the sale or
234 charges for any room or rooms, lodgings, or accommodations furnished to transients for less than ninety
235 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any
236 other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for
237 a consideration; and (ii) sales of tangible personal property to persons for resale when because of the
238 operation of the business, or its very nature, or the lack of a place of business in which to display a
239 certificate of registration, or the lack of a place of business in which to keep records, or the lack of
240 adequate records, or because such persons are minors or transients, or because such persons are engaged
241 in essentially service businesses, or for any other reason there is likelihood that the Commonwealth will
242 lose tax funds due to the difficulty of policing such business operations. The Tax Commissioner is
243 authorized to promulgate regulations requiring vendors of or sellers to such persons to collect the tax
244 imposed by this chapter on the cost price of such tangible personal property to such persons and may

refuse to issue certificates of registration to such persons.

The term "transient" shall not include a purchaser of camping memberships, time-shares, condominiums, or other similar contracts or interests that permit the use of, or constitute an interest in, real estate, however created or sold and whether registered with this Commonwealth or not. Further, a purchaser of a right or license which entitles the purchaser to use the amenities and facilities of a specific real estate project on an ongoing basis throughout its term shall not be deemed a transient; provided, however, that the term or time period involved is for seven years or more.

The terms "retail sale" and "sale at retail" shall not include a transfer of title to tangible personal property after its use as tools, tooling, machinery or equipment, including dies, molds, and patterns, if (i) at the time of purchase, the purchaser is obligated, under the terms of a written contract, to make the transfer and (ii) the transfer is made for the same or a greater consideration to the person for whom the purchaser manufactures goods.

"Retailer" means every person engaged in the business of making sales at retail, or for distribution, use, consumption, or storage to be used or consumed in this Commonwealth.

"Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property and any rendition of a taxable service for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication, and the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.

"Sales price" means the total amount for which tangible personal property or services are sold, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, losses or any other expenses whatsoever. "Sales price" shall not include (i) any cash discount allowed and taken (ii) finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other conditional contracts providing for deferred payments of the purchase price, or (iii) separately stated local property taxes collected. Where used articles are taken in trade, or in a series of trades as a credit or part payment on the sale of new or used articles, the tax levied by this chapter shall be paid on the net difference between the sales price of the new or used articles and the credit for the used articles.

"Storage" means any keeping or retention of tangible personal property for use, consumption or distribution in this Commonwealth, or for any purpose other than sale at retail in the regular course of business.

"Tangible personal property" means personal property which may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. The term "tangible personal property" shall not include stocks, bonds, notes, insurance or other obligations or securities.

"Use" means the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it does not include the sale at retail of that property in the regular course of business. The term does not include the exercise of any right or power, including use, distribution, or storage, over any tangible personal property sold to a nonresident donor for delivery outside of the Commonwealth to a nonresident recipient pursuant to an order placed by the donor from outside the Commonwealth via mail or telephone.

"Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as herein defined.

"Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers to those activities which are an integral part of the production of a product, including all steps of an integrated manufacturing or mining process, but not including ancillary activities such as general maintenance or administration. When used in relation to mining, it shall refer to the activities specified above, and in addition, any reclamation activity of the land previously mined by the mining company required by state or federal law.

"Video programmer" means a person or entity that provides video programming to end-user subscribers.

"Video programming" means video and/or information programming provided by or generally considered comparable to programming provided by a cable operator including, but not limited to, Internet service.

§ 58.1-603. Imposition of sales tax.

There is hereby levied and imposed, in addition to all other taxes and fees of every kind now imposed by law, a license or privilege tax upon every person who engages in the business of selling at

306 retail or distributing tangible personal property in this Commonwealth, or who rents or furnishes any of
307 the things or services taxable under this chapter, or who stores for use or consumption in this
308 Commonwealth any item or article of tangible personal property as defined in this chapter, or who
309 leases or rents such property within this Commonwealth, in the amount of three and one-half percent
310 *through midnight on June 30, 2003, and four percent beginning July 1, 2003:*

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

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

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

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

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

321 § 58.1-604. Imposition of use tax.

322 There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a
323 tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of
324 such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount
325 of three and one-half percent *through midnight on June 30, 2003, and four percent beginning July 1,*
326 *2003:*

327 1. Of the cost price of each item or article of tangible personal property used or consumed in this
328 Commonwealth. Tangible personal property which has been acquired for use outside this Commonwealth
329 and subsequently becomes subject to the tax imposed hereunder shall be taxed on the basis of its cost
330 price if such property is brought within this Commonwealth for use within six months of its acquisition;
331 but if so brought within this Commonwealth six months or more after its acquisition, such property shall
332 be taxed on the basis of the current market value (but not in excess of its cost price) of such property at
333 the time of its first use within this Commonwealth. Such tax shall be based on such proportion of the
334 cost price or current market value as the duration of time of use within this Commonwealth bears to the
335 total useful life of such property (but it shall be presumed in all cases that such property will remain
336 within this Commonwealth for the remainder of its useful life unless convincing evidence is provided to
337 the contrary).

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

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

342 4. The use tax shall not apply with respect to the use of any article of tangible personal property
343 brought into this Commonwealth by a nonresident individual, visiting in Virginia, for his personal use,
344 while within this Commonwealth.

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

347 § 58.1-604.1. Use tax on motor vehicles, machinery, tools and equipment brought into Virginia for
348 use in performing contracts.

349 In addition to the use tax levied pursuant to § 58.1-604 and notwithstanding the provisions of
350 § 58.1-611, a use tax is levied upon the storage or use of all motor vehicles, machines, machinery, tools
351 or other equipment brought, imported or caused to be brought into this Commonwealth for use in
352 constructing, building or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or
353 water system, drainage or dredging system, railway system, reservoir or dam, hydraulic or power plant,
354 transmission line, tower, dock, wharf, excavation, grading, or other improvement or structure, or any
355 part thereof. The rate of tax is three and one-half percent *through midnight on June 30, 2003, and four*
356 *percent beginning July 1, 2003,* on all tangible personal property except motor vehicles, which shall be
357 taxed at the rate of three percent; aircraft, which shall be taxed at the rate of two percent; and
358 watercraft, which shall be taxed at the rate of two percent with a maximum tax of \$1,000.

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

365 The tax shall be computed on the basis of such proportion of the original purchase price of such
366 property as the duration of time of use in this Commonwealth bears to the total useful life thereof. For
367 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.

§ 58.1-604.4. *One-half of one percent sales tax in certain counties and cities.*

A. Beginning July 1, 2003, a tax of one-half of one percent is hereby levied and imposed on the property, activities and services described in § 58.1-603 in all counties and cities that were part of a planning district, established pursuant to § 15.2-4203, whose entire planning district geographic boundaries were, as of January 1, 2002, designated as nonattainment for the one-hour ozone standard pursuant to the federal Clean Air Act Amendments of 1990.

B. Beginning July 1, 2003, a tax of one-half of one percent is hereby levied and imposed on the property, activities and services described in § 58.1-604 in all counties and cities that were part of a planning district, established pursuant to § 15.2-4203, whose entire planning district geographic boundaries were, as of January 1, 2002, designated as nonattainment for the one-hour ozone standard pursuant to the federal Clean Air Act Amendments of 1990.

C. The taxes under this section shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed on any tax provided under this section.

D. All taxes paid to the Tax Commissioner pursuant to this section, less the applicable portion of any refunds to taxpayers, shall be deposited in a special fund titled the "Special Fund Account of the Northern Virginia Transportation Authority." The moneys deposited in the special fund shall be distributed monthly to the Northern Virginia Transportation Authority to be used for funding of the Northern Virginia Regional Transportation Program as created under the Northern Virginia Regional Transportation Program Bond Act of 2002.

§ 58.1-604.5. *One percent sales tax in certain counties and cities.*

A. 1. Beginning July 1, 2003, a tax of one percent is hereby levied and imposed on the property, activities and services described in § 58.1-603 in any county or city (i) whose entire geographic boundaries were at one time designated as nonattainment for the one-hour ozone standard pursuant to the federal Clean Air Act Amendments of 1990, (ii) whose entire geographic boundaries were redesignated to attainment status for such one-hour ozone standard on or before July 28, 1997, and (iii) that as of January 1, 2002, was required to have an air quality maintenance plan in effect for ozone pursuant to the federal Clean Air Act Amendments of 1990.

2. Such tax shall also be imposed beginning July 1, 2003, in any county (i) not included in subdivision 1 of this subsection and (ii) in which U.S. Route 460 was situated, as of July 1, 2002, from Zuni eastward to the end of such highway.

B. 1. Beginning July 1, 2003, a tax of one percent is hereby levied and imposed on the property, activities and services described in § 58.1-604 in any county or city (i) whose entire geographic boundaries were at one time designated as nonattainment for the one-hour ozone standard pursuant to the federal Clean Air Act Amendments of 1990, (ii) whose entire geographic boundaries were redesignated to attainment status for such one-hour ozone standard on or before July 28, 1997, and (iii) that as of January 1, 2002, was required to have an air quality maintenance plan in effect for ozone pursuant to the federal Clean Air Act Amendments of 1990.

2. Such tax shall also be imposed beginning July 1, 2003, in any county (i) not included in subdivision 1 of this subsection and (ii) in which U.S. Route 460 was situated, as of July 1, 2002, from Zuni eastward to the end of such highway.

C. The taxes under this section shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed on any tax provided under this section.

D. All taxes paid to the Tax Commissioner pursuant to this section, less the applicable portion of any refunds to taxpayers, shall be deposited in a special fund titled the "Special Fund Account of the Hampton Roads Planning District Commission." The moneys deposited in the special fund shall be distributed monthly to the Hampton Roads Planning District Commission, created pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Subtitle IV of Title 15.2, to be used for funding of the Eastern Virginia Regional Transportation Program as described in subsection B of § 33.1-221.1:7.

§ 58.1-605. To what extent and under what conditions cities and counties may levy local sales taxes; collection thereof by Commonwealth and return of revenue to each city or county entitled thereto.

A. No county, city or town shall impose any local general sales or use tax or any local general retail

429 sales or use tax except as authorized by this section.

430 B. The council of any city and the governing body of any county may levy a general retail sales tax
431 at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall
432 be added to the rate of the state sales tax imposed by §§ 58.1-603 and 58.1-604 and shall be subject to
433 all the provisions of this chapter and the rules and regulations published with respect thereto. The
434 applicable brackets of prices shall be as prescribed in ~~§ 58.1-628~~ *by the Tax Commissioner* for the
435 combined state and local tax. No discount under § 58.1-622 shall be allowed on a local sales tax.

436 C. The council of any city and the governing body of any county desiring to impose a local sales tax
437 under this section may do so by the adoption of an ordinance stating its purpose and referring to this
438 section, and providing that such ordinance shall be effective on the first day of a month at least sixty
439 days after its adoption. A certified copy of such ordinance shall be forwarded to the Tax Commissioner
440 so that it will be received within five days after its adoption.

441 D. Any local sales tax levied under this section shall be administered and collected by the Tax
442 Commissioner in the same manner and subject to the same penalties as provided for the state sales tax,
443 with the adjustments required by ~~§ 58.1-628~~ § 58.1-628.1.

444 E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid
445 into the state treasury to the credit of a special fund which is hereby created on the Comptroller's books
446 under the name "Collections of Local Sales Taxes." Such local sales tax moneys shall be credited to the
447 account of each particular city or county levying a local sales tax under this section. The basis of such
448 credit shall be the city or county in which the sales were made as shown by the records of the
449 Department and certified by it monthly to the Comptroller, namely, the city or county of location of
450 each place of business of every dealer paying the tax to the Commonwealth without regard to the city or
451 county of possible use by the purchasers. If a dealer has any place of business located in more than one
452 political subdivision by reason of the boundary line or lines passing through such place of business, the
453 amount of sales tax paid by such a dealer with respect to such place of business shall be treated for the
454 purposes of this section as follows: one-half shall be assignable to each political subdivision where two
455 are involved, one-third where three are involved, and one-fourth where four are involved.

456 F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in
457 any month for the preceding month, the Comptroller shall draw his warrant on the Treasurer of Virginia
458 in the proper amount in favor of each city or county entitled to the monthly return of its local sales tax
459 moneys, and such payments shall be charged to the account of each such city or county under the
460 special fund created by this section. If errors are made in any such payment, or adjustments are
461 otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall
462 be corrected and adjustments made in the payments for the next six months as follows: one-sixth of the
463 total adjustment shall be included in the payments for the next six months. In addition, the payment
464 shall include a refund of amounts erroneously not paid to the city or county and not previously refunded
465 during the three years preceding the discovery of the error. A correction and adjustment in payments
466 described in this subsection due to the misallocation of funds by the dealer shall be made within three
467 years of the date of the payment error.

468 G. Such payments to counties are subject to the qualification that in any county wherein is situated
469 any incorporated town constituting a special school district and operated as a separate school district
470 under a town school board of three members appointed by the town council, the county treasurer shall
471 pay into the town treasury for general governmental purposes the proper proportionate amount received
472 by him in the ratio that the school age population of such town bears to the school age population of
473 the entire county. If the school age population of any town constituting a separate school district is
474 increased by the annexation of territory since the last preceding school age population census, such
475 increase shall, for the purposes of this section, be added to the school age population of such town as
476 shown by the last such census and a proper reduction made in the school age population of the county
477 or counties from which the annexed territory was acquired.

478 H. One-half of such payments to counties are subject to the further qualification, other than as set
479 out in subsection G above, that in any county wherein is situated any incorporated town not constituting
480 a separate special school district which has complied with its charter provisions providing for the
481 election of its council and mayor for a period of at least four years immediately prior to the adoption of
482 the sales tax ordinance, the county treasurer shall pay into the town treasury of each such town for
483 general governmental purposes the proper proportionate amount received by him in the ratio that the
484 school age population of each such town bears to the school age population of the entire county, based
485 on the latest statewide school census. The preceding requirement pertaining to the time interval between
486 compliance with election provisions and adoption of the sales tax ordinance shall not apply to a tier-city.
487 If the school age population of any such town not constituting a separate special school district is
488 increased by the annexation of territory or otherwise since the last preceding school age population
489 census, such increase shall, for the purposes of this section, be added to the school age population of
490 such town as shown by the last such census and a proper reduction made in the school age population

of the county or counties from which the annexed territory was acquired.

I. Notwithstanding the provisions of subsection H, the board of supervisors of a county may, in its discretion, appropriate funds to any incorporated town not constituting a separate school district within such county which has not complied with the provisions of its charter relating to the elections of its council and mayor, an amount not to exceed the amount it would have received from the tax imposed by this chapter if such election had been held.

J. It is further provided that if any incorporated town which would otherwise be eligible to receive funds from the county treasurer under subsection G or H of this section be located in a county which does not levy a general retail sales tax under the provisions of this law, such town may levy a general retail sales tax at the rate of one percent to provide revenue for the general fund of the town, subject to all the provisions of this section generally applicable to cities and counties. Any tax levied under the authority of this subsection shall in no case continue to be levied on or after the effective date of a county ordinance imposing a general retail sales tax in the county within which such town is located.

§ 58.1-606. To what extent and under what conditions cities and counties may levy local use tax; collection thereof by Commonwealth and return of revenues to the cities and counties.

A. The council of any city and the governing body of any county which has levied or may hereafter levy a city or county sales tax under § 58.1-605 may levy a city or county use tax at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall be added to the rate of the state use tax imposed by this chapter and shall be subject to all the provisions of this chapter, and all amendments thereof, and the rules and regulations published with respect thereto, except that the applicable brackets of prices shall be as prescribed in ~~§ 58.1-628~~ by the Tax Commissioner for the combined state and local tax, and except that no discount under § 58.1-622 shall be allowed on a local use tax.

B. The council of any city and the governing body of any county desiring to impose a local use tax under this section may do so in the manner following:

1. If the city or county has previously imposed the local sales tax authorized by § 58.1-605, the local use tax may be imposed by the council or governing body by the adoption of a resolution by a majority of all the members thereof, by a recorded ye and nay vote, stating its purpose and referring to this section, and providing that the local use tax shall become effective on the first day of a month at least sixty days after the adoption of the resolution. A certified copy of such resolution shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption. The resolution authorized by this paragraph may be adopted in the manner stated notwithstanding any other provision of law, including any charter provision.

2. If the city or county has not imposed the local sales tax authorized by § 58.1-605, the local use tax may be imposed by ordinance together with the local sales tax in the manner set out in subsections B and C of § 58.1-605.

C. Any local use tax levied under this section shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state use tax, with the adjustments required by ~~§ 58.1-628~~ § 58.1-628.1.

D. The local use tax authorized by this section shall not apply to transactions to which the sales tax applies, the situs of which for state and local sales tax purposes is the city or county of location of each place of business of every dealer paying the tax to the Commonwealth without regard to the city or county of possible use by the purchasers. However, the local use tax authorized by this section shall apply to tangible personal property purchased without this Commonwealth for use or consumption within the city or county imposing the local use tax, or stored within the city or county for use or consumption, where the property would have been subject to the sales tax if it had been purchased within this Commonwealth. The local use tax shall also apply to leases or rentals of tangible personal property where the place of business of the lessor is without this Commonwealth and such leases or rentals are subject to the state tax. Moreover, the local use tax shall apply in all cases in which the state use tax applies.

E. Out-of-state dealers who hold certificates of registration to collect the use tax from their customers for remittance to this Commonwealth shall, to the extent reasonably practicable, in filing their monthly use tax returns with the Tax Commissioner, break down their shipments into this Commonwealth by cities and counties so as to show the city or county of destination. If, however, the out-of-state dealer is unable accurately to assign any shipment to a particular city or county, the local use tax on the tangible personal property involved shall be remitted to the Commonwealth by such dealer without attempting to assign the shipment to any city or county.

F. Local use tax revenue shall be distributed among the cities and counties for which it is collected, respectively, as shown by the records of the Department, and the procedure shall be the same as that prescribed for distribution of local sales tax revenue under § 58.1-605. The local use tax revenue that is not accurately assignable to a particular city or county shall be distributed monthly by the appropriate

state authorities among the cities and counties in this Commonwealth imposing the local use tax upon the basis of taxable retail sales in the respective cities and counties in which the local sales and use tax was in effect in the taxable month involved, as shown by the records of the Department, and computed with respect to taxable retail sales as reflected by the amounts of the local sales tax revenue distributed among such cities and counties, respectively, in the month of distribution. Notwithstanding any other provision of this section, the Tax Commissioner shall develop a uniform method to distribute local use tax. Any significant changes to the method of local use tax distribution shall be phased in over a ~~five~~ *five-year* period. Distribution information shall be shared with the affected localities prior to implementation of the changes.

G. All local use tax revenue shall be used, applied or disbursed by the cities and counties as provided in § 58.1-605 with respect to local sales tax revenue.

§ 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 24,200 but no more than 24,500 as determined by the 1990 United States Census, 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~~ *nor shall it include the one-half of one percent sales and use tax revenue distributed pursuant to subsection G of § 58.1-638*.

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, (iv) on or after July 1, 2000, but before July 1, 2003, or (v) on or after July 1,

2001, but before July 1, 2004, 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 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 in subsection D have 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.

G. *The additional one-half of one percent increase effective July 1, 2003, in the taxes imposed pursuant to §§ 58.1-603 and 58.1-604 shall not apply to food purchased for human consumption.*

H. *The taxes imposed pursuant to §§ 58.1-604.4 and 58.1-604.5 shall not apply to food purchased for human consumption.*

§ 58.1-614. Vending machine sales.

A. ~~Notwithstanding the provisions of §§ 58.1-603 and 58.1-604, whenever~~ For all taxes pursuant to this chapter, 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 equal to such wholesale purchases multiplied by the sales and use tax rate applicable pursuant to this chapter.

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.~~

CB. The provisions of subsections A and B of this section subsection A 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.

DC. ~~Notwithstanding any other provisions in this section or § 58.1-628, when~~ When the Tax Commissioner determines that it is impractical to collect the tax in the manner provided by these sections subsection A or subsection B, 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.

ED. 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.

§ 58.1-626. Absorption of tax prohibited.

No person shall advertise or hold out to the public, directly or indirectly, that he will absorb all or any part of the sales or use tax, or that he will relieve the purchaser, consumer, or lessee of the payment of all or any part of such tax, except as may be authorized under § 58.1-627 or § 58.1-628 § 58.1-628.1. Any person who violates this section shall be guilty of a Class 2 misdemeanor.

§ 58.1-628.1. *Adjustment to the rate of tax imposed under this chapter.*

If a dealer can show to the satisfaction of the Tax Commissioner that more than eighty-five percent of the total dollar volume of his gross taxable sales during the taxable month was from individual sales at prices of ten cents or less 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 that 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 shall remain in the Fund. Interest earned on such funds shall be credited to the Fund. Funds may be paid to any local governing body, transportation district commission, or public service corporation for the purposes hereinafter specified.

b. The amounts allocated pursuant to this section shall be used to support the public transportation administrative costs and the costs borne by the locality for the purchase of fuels, lubricants, tires and maintenance parts and supplies for public transportation at a state share of eighty percent in 2002 and ninety-five percent in 2003 and succeeding years. These amounts may be used to support up to ninety-five percent of the local or nonfederal share of capital project costs for public transportation and ridesharing equipment, facilities, and associated costs. Capital costs may include debt service payments on local or agency transit bonds. The term "borne by the locality" means the local share eligible for state assistance consisting of costs in excess of the sum of fares and other operating revenues plus federal assistance received by the locality.

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

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

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

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

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

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

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

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

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

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

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

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

830 g. There is hereby created in the Department of the Treasury a special nonreverting fund known as
831 the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the
832 Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be
833 established on the books of the Comptroller and consist of such moneys as are appropriated to it by the
834 General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given,
835 bequeathed, granted, or otherwise made available to the Commonwealth Transit Capital Fund. Any funds
836 remaining in the Commonwealth Transit Capital Fund at the end of the biennium shall not revert to the
837 general fund, but shall remain in the Commonwealth Transit Capital Fund. Interest earned on funds
838 within the Commonwealth Transit Capital Fund shall remain in and be credited to the Commonwealth
839 Transit Capital Fund. Proceeds of the Commonwealth Transit Capital Fund may be paid to any political
840 subdivision, another public entity created by an act of the General Assembly, or a private entity as
841 defined in § 56-557 and for purposes as enumerated in subdivision 4c of § 33.1-269 or expended by the
842 Department of Rail and Public Transportation for the purposes specified in this subdivision. Revenues of
843 the Commonwealth Transit Capital Fund shall be used to support capital expenditures involving the
844 establishment, improvement, or expansion of public transportation services through specific projects
845 approved by the Commonwealth Transportation Board. Projects financed by the Commonwealth Transit
846 Capital Fund shall receive local, regional or private funding for at least twenty percent of the nonfederal
847 share of the total project cost.

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

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

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

858 Appropriations from the Commonwealth Mass Transit Fund are intended to provide a stable and
859 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, 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 balance in the Capital Improvement Fund is less than \$35 million.

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

G. *The revenue generated and collected from the one-half of one percent increase in the state sales and use tax, beginning July 1, 2003, pursuant to §§ 58.1-603 and 58.1-604, shall be paid into the state treasury to the credit of a special fund that is hereby created on the Comptroller's books under the name "Collections of Additional Sales and Use Taxes."*

All revenue generated and collected from such increase shall be distributed by warrant of the Comptroller drawn on the Treasurer of Virginia as soon as practicable after the close of each month during which it was received into the state treasury. The revenue credited and distributed pursuant to this subsection shall be the gross revenue generated and collected from such one-half of one percent increase, less the applicable portion of any refunds to taxpayers.

All revenue distributed under this subsection shall be used for the purposes described in subsection D.

Such revenue shall be distributed as follows:

1. First, each county and city of the Commonwealth shall receive a distribution equal to one-third of the revenue generated and collected within its geographic boundaries from such increase. Such amount shall be distributed to the respective county or city in accordance with the same procedures for the

921 collection of sales tax moneys pursuant to subsection E of § 58.1-605 and the same procedures for the
922 collection of use tax moneys pursuant to subsections E and F of § 58.1-606. In any county wherein is
923 situated any incorporated town constituting a school division, the county treasurer shall pay into the
924 town treasury the proper proportionate amount received by him in the ratio that the school population
925 of such town bears to the school population of the entire county.

926 2. Then, one-third of the revenue generated and collected from such increase shall be distributed to
927 the counties and cities of this Commonwealth on a set per pupil amount, based on the latest actual
928 adjusted average daily membership, and adjusted by the locality's composite index of ability to pay as
929 set forth in the general appropriation act.

930 3. Finally, one-third of the revenue generated and collected from such increase shall be distributed
931 to the counties and cities of the Commonwealth in accordance with subsections C and D.

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

935 § 58.1-3833. County food and beverage tax.

936 A. Any county is hereby authorized to levy a tax on food and beverages sold, for human
937 consumption, by a restaurant, as such term is defined in subdivision 9 of § 35.1-1, not to exceed eight
938 and one-half percent, when added to the state and local general sales and use tax, four percent of the
939 amount charged for such food and beverages. Such tax shall not be levied on food and beverages sold
940 through vending machines or by any person described in subdivisions 1, 2, 3, and 5 of § 35.1-25, as
941 well as nonprofit cafeterias in public schools, nursing homes, and hospitals. Grocery stores and
942 convenience stores selling prepared foods ready for human consumption at a delicatessen counter shall
943 be subject to the tax, for that portion of the grocery store or convenience store selling such items.

944 This tax shall be levied only if the tax is approved in a referendum within the county which shall be
945 held in accordance with § 24.2-684 and initiated either by a resolution of the board of supervisors or on
946 the filing of a petition signed by a number of registered voters of the county equal in number to ten
947 percent of the number of voters registered in the county, as appropriate on January 1 of the year in
948 which the petition is filed with the court of such county. The clerk of the circuit court shall publish
949 notice of the election in a newspaper of general circulation in the county once a week for three
950 consecutive weeks prior to the election. If the voters affirm the levy of a local meals tax, the tax shall
951 be effective in an amount and on such terms as the governing body may by ordinance prescribe. If such
952 resolution of the board of supervisors or such petition states for what projects and/or purposes the
953 revenues collected from the tax are to be used, then the question on the ballot for the referendum shall
954 include language stating for what projects and/or purposes the revenues collected from the tax are to be
955 used.

956 The term "beverage" as set forth herein shall mean alcoholic beverages as defined in § 4.1-100 and
957 nonalcoholic beverages served as part of a meal. The tax shall be in addition to the sales tax currently
958 imposed by the county pursuant to the authority of Chapter 6 (§ 58.1-600 et seq.) of this title. Collection
959 of such tax shall be in a manner prescribed by the governing body.

960 B. Notwithstanding the provisions of subsection A of this section, any county with a population of at
961 least 70,000 but no more than 100,000, any county with a population of at least 17,910 but no more
962 than 18,000, any county with a population of at least 34,000 but no more than 34,400, and any county
963 having a county manager plan of government are hereby authorized to levy a tax on food and beverages
964 sold for human consumption by a restaurant, as such term is defined in § 35.1-1 and as modified in
965 subsection A above and subject to the same exemptions, not to exceed four percent of the amount
966 charged for such food and beverages, provided that the governing body of the respective county holds a
967 public hearing before adopting a local food and beverage tax, and the governing body by unanimous
968 vote adopts such tax by local ordinance. The tax shall be effective in an amount and on such terms as
969 the governing body may by ordinance prescribe.

970 C. Nothing herein contained shall affect any authority heretofore granted to any county, city or town
971 to levy a meals tax. The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax
972 levied under this section, mutatis mutandis. All food and beverage tax collections and all meals tax
973 collections shall be deemed to be held in trust for the county, city or town imposing the applicable tax.

974 D. No county which has heretofore adopted an ordinance pursuant to subsection A of this section
975 shall be required to submit an amendment to its meals tax ordinance to the voters in a referendum.

976 E. Notwithstanding any other provision of this section, no locality shall levy any tax under this
977 section upon alcoholic beverages sold in factory sealed containers and purchased for off-premises
978 consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of
979 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the
980 following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads
981 consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

982 2. That the following is the Northern Virginia Regional Transportation Program Bond Act of

983 2002.

984 § 1. Title. This act shall be known and may be cited as the "Northern Virginia Regional
985 Transportation Program Bond Act of 2002."

986 § 2. For purposes of this act, the following definitions shall apply:

987 "Authority" means the Northern Virginia Transportation Authority as created under the Code of
988 Virginia.

989 "Program" means the Northern Virginia Regional Transportation Program.

990 "Project" or "Projects" means a transportation project or projects included in the program.

991 § 3. The Program shall consist of the following Projects: Dulles Corridor Transit (locality share),
992 I-66 Improvements and Rail Extension, I-95/I-395 Improvements and Transit Improvements, Route 1
993 Improvements, Route 28 Improvements, I-495 Improvements and Transit Improvements, Fairfax County
994 Parkway, Tri-County/Loudoun Parkway, VRE New Railcar Purchase, Route 234 Bypass/Route 659
995 Relocated, Metrorail Infrastructure Replacement Program, Secondary System Improvements (including
996 unpaved roads), Urban System Improvements, Route 7 Improvements Loudoun and Fairfax, Columbia
997 Pike/Route 7 Transit Improvements, and Rail Safety Improvements.

998 § 4. The Authority is hereby authorized to issue at one time or from time to time bonds in an
999 aggregate principal amount not exceeding \$2,225,000,000 to finance the costs of the Projects plus an
1000 amount for the issuance costs, capitalized interest, reserve funds, and other financing expenses (the
1001 "Bonds"). The proceeds of the Bonds shall be used exclusively for the purpose of providing funds, with
1002 any other available funds, for paying the costs incurred or to be incurred for construction or funding of
1003 the Projects that comprise the program, consisting of environmental and engineering studies,
1004 rights-of-way acquisition, improvements to all modes of transportation, acquisition, construction and
1005 related improvements. Such costs may include the payment of interest on the Bonds for a period during
1006 construction and not exceeding one year after completion of construction of the Projects.

1007 § 5. The Projects, and the amount of bonds authorized to be issued for each such Project, are as
1008 follows and constitute the Northern Virginia Regional Transportation Program:

1009 Projects	Bond amount
1010	
1011 Dulles Corridor Transit (locality share)	\$300,000,000
1012	
1013 I-66 Improvements and Rail Extension	\$300,000,000
1014	
1015 I-95/I-395 Improvements and Transit	
1016	
1017 Improvements	\$300,000,000
1018	
1019 Route 1 Improvements	\$100,000,000
1020	
1021 Route 28 Improvements	\$50,000,000
1022	
1023 I-495 Improvements and Transit Improvements	\$200,000,000
1024	
1025 Fairfax County Parkway	\$150,000,000
1026	
1027 Tri-County/Loudoun Parkway	\$100,000,000
1028	
1029 VRE New Railcar Purchase	\$50,000,000
1030	
1031 Route 234 Bypass/Route 659 Relocated	\$50,000,000
1032	
1033 Metrorail Infrastructure Replacement Program	\$200,000,000
1034	
1035 Secondary System Improvements (including	
1036	
1037 unpaved roads)	\$150,000,000
1038	
1039 Urban System Improvements	\$90,000,000
1040	

1041	Route 7 Improvements Loudoun and Fairfax	\$100,000,000
1042		
1043	Columbia Pike/Route 7 Transit Improvements	\$75,000,000
1044		
1045	Rail Safety Improvements	\$10,000,000
1046		
1047	Total	\$2,225,000,000

1048
1049 *Bond proceeds for Secondary System Improvements (including unpaved roads) shall be allocated to*
1050 *those localities described in § 15.2-4819 of the Code of Virginia that receive allocations of funds for*
1051 *secondary system highways pursuant to § 33.1-23.4 of the Code of Virginia, and such bond proceeds*
1052 *shall be allocated pursuant to § 33.1-23.3 of the Code of Virginia. Bond proceeds allocated for Urban*
1053 *System Improvements shall be allocated pursuant to § 33.1-23.3 of the Code of Virginia to those*
1054 *localities described in § 15.2-4819 of the Code of Virginia, and the towns therein, that receive*
1055 *allocations of funds pursuant to § 33.1-23.3 of the Code of Virginia.*

1056 *To the extent that the cost of any Project listed above is less than the amount allocated to such*
1057 *Project, the Authority may increase the amount allocated to any other Project listed above. No such*
1058 *allocation to a Project may be increased, however, until it has been demonstrated to the satisfaction of*
1059 *the Authority that the cost of the Project has been reduced to the extent reasonable. No increase in the*
1060 *amount allocated to any Project shall constitute an authorization for the issuance of bonds in an*
1061 *amount in excess of the aggregate amount authorized hereunder.*

1062 *To the extent that the moneys deposited to the Special Fund Account of the Northern Virginia*
1063 *Transportation Authority pursuant to subsection D of § 58.1-604.4 of the Code of Virginia exceed the*
1064 *amount needed to pay annual debt service on bonds issued to support the Program Projects in any*
1065 *particular fiscal year, plus the amount needed in the fiscal year to pay all other costs to administer all*
1066 *debts or obligations issued pursuant to this act, the Authority shall allocate such funds subject to the*
1067 *following conditions: (i) first, upon the recommendations of the counties and cities described in*
1068 *subsections A and B of § 58.1-604.4 of the Code of Virginia, up to fifteen percent of such funds shall be*
1069 *allocated to transit operational costs; (ii) then, any remaining funds shall be allocated to Program*
1070 *Projects provided that the Authority determines such allocations will materially advance the construction*
1071 *of such Program Projects; and (iii) finally, upon the recommendations of the counties and cities*
1072 *described in subsections A and B of § 58.1-604.4 of the Code of Virginia, any remaining portion of such*
1073 *funds shall be allocated to fund other transit, primary, urban, or secondary projects in the counties and*
1074 *cities described in subsections A and B of § 58.1-604.4.*

1075 *§ 6. The Authority is hereby authorized to borrow money at such rate or rates through the execution*
1076 *and issuance of notes for the same (hereinafter "anticipation notes" or "BANs"), but only in the*
1077 *following circumstances and under the following conditions:*

1078 *a. In anticipation of the sale of the Bonds the issuance of which shall have been authorized and*
1079 *approved by the Authority, if the Authority shall deem it advisable to postpone the issuance of such*
1080 *Bonds; or*

1081 *b. For the renewal of any anticipation notes (BANs) herein authorized.*

1082 *§ 7. Application of Proceeds. Proceeds (including any premium) of the Bonds and any BANs (except*
1083 *the proceeds of (i) Bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds and*
1084 *(iii) refunding BANs) shall be deposited in a special capital outlay fund of the Authority and shall be*
1085 *disbursed only for the purpose for which the Bonds or any BANs have been issued. The proceeds of (a)*
1086 *Bonds the issuance of which has been anticipated by BANs, (b) refunding bonds and (c) refunding BANs*
1087 *and any funds provided by the General Assembly, or available from any other source, for the purpose,*
1088 *shall be used to pay such BANs, refunded bonds and refunded BANs.*

1089 *§ 8. The Authority is hereby authorized to receive any other funds that may be made available to pay*
1090 *costs of the projects and to make available the same to the payment of the principal or purchase price*
1091 *of, and redemption premium, if any, and interest on, the Bonds authorized hereby.*

1092 *§ 9. The terms and structure of each issue of the Bonds shall be determined by the Authority. The*
1093 *Bonds of each issue shall be dated, shall be issued in a principal amount (subject to the limitation as to*
1094 *the aggregate principal amount set forth in § 4), shall bear interest at such rate or rates, which may be*
1095 *fixed, adjustable, variable or a combination thereof, and may be determined by a formula or other*
1096 *method, shall mature at such time or times not exceeding thirty-five years after the issuance thereof, and*
1097 *may be made subject to purchase or redemption before their maturity or maturities, at such price or*
1098 *prices and under such terms and conditions, all as may be determined by the Authority. The Authority*
1099 *shall determine the form of the Bonds, whether the Bonds are certificated or uncertificated, and fix the*
1100 *authorized denomination or denominations of the Bonds and the place or places of payment of principal*
1101 *or purchase price of, and redemption premium, if any, and interest on, the Bonds, which may be at the*

office of the Authority or any bank or trust company within or without the Commonwealth. The principal or purchase price of, and redemption premium, if any, and interest on, the Bonds shall be made payable in lawful money of the United States of America. Each issue of the Bonds may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments of principal or purchase price of and redemption premium, if any, and interest on such Bonds. All the Bonds shall have and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth.

The Authority may sell the Bonds from time to time at public or private sale, by competitive bidding, negotiated sale or private placement, for such price or prices as it may determine to be in the best interests of the Authority.

§ 10. The Bonds and BANs shall be signed on behalf of the Authority by the chairman or vice-chairman of the Authority, or shall bear the facsimile signature of such officer. In the event that the Bonds or BANs shall bear the facsimile signature of the chairman or vice-chairman of the Authority, they shall be signed by such administrative assistant as the chairman of the Authority shall determine or any registrar/paying agent that may be designated by the Authority. In case any officer whose signature or a facsimile of whose signature appears on any Bonds or BANs shall cease to be such officer before the delivery of such Bonds or BANs, such signature or facsimile signature nevertheless shall be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

§ 11. Refunding. The Authority is hereby authorized to sell and issue, at one time or from time to time, refunding bonds and BANs, to refund any or all of the Bonds and BANs, respectively, issued under this act. Refunding bonds or BANs may be issued in a principal amount up to the amount necessary to pay at maturity or redeem the Bonds and BANs to be refunded and pay all issuance costs and other financing expenses of the refunding. Such refunding bonds and BANs may be issued whether or not the Bonds or BANs to be refunded are then subject to redemption.

§ 12. Authorized Investments. Pending the application of the proceeds of the Bonds or BANs (including refunding bonds and BANs) to the purpose for which they have been authorized and the application of funds set aside for the purpose to the payment of Bonds or BANs, they may be invested by the Authority in legal investments under the laws of the Commonwealth for public funds and sinking funds, as the case may be. Whenever the Authority receives interest from the investment of the proceeds of Bonds or any BANs, such interest shall become a part of the principal of the Bonds or any BANs and shall be used in the same manner as required or permitted for principal of the Bonds or BANs.

§ 13. The Bonds authorized under § 4 may be issued without obtaining the consent of any commission, office, department, board, council, bureau, agency or other persons or entities of the Commonwealth or of any political subdivision of the Commonwealth, and without any proceedings or the happening of conditions or things other than those proceedings, conditions or things that are specifically required under this act. The Authority may issue such types of Bonds as it may determine consistent with the provisions of §§ 4 and 5 of this act and subject to § 16 of this act, including, without limitation, Bonds payable as to principal and interest from any one or more of the following sources: (i) its revenues generally, including all amounts deposited into the Special Fund Account of the Northern Virginia Transportation Authority pursuant to § 58.1-604.4 of the Code of Virginia; (ii) proceeds from the sale of Bonds; (iii) payments under letters of credit, policies of bond insurance, guarantees or other credit enhancements; (iv) any reserve or sinking funds created to secure such payment; or (v) other available funds of the Authority.

§ 14. Security for Bonds and BANs. The proceeds of (i) Bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds and (iii) refunding BANs are hereby irrevocably pledged for the payment of principal of and interest and any premium on such BANs or Bonds or BANs to be refunded thereby.

Any Bond authorized under this act may be issued pursuant to or secured by a trust indenture or by a trust or other agreement with a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth, or other agent for bondholders, or any combination thereof. Any such trust indenture or other agreement may pledge or assign revenues, fees, rents and other charges to be received and may contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law. Such provisions may include covenants: (i) providing for the application of revenues and sale by the Authority, or any trustees under any trust indenture or agreement, of any property upon default, provided that in no case may any Project be subject to such sale; (ii) setting forth duties of the Authority in relation to the acquisition, construction, maintenance, operation and insurance of any property of the Authority and the amounts of fees, rents and other charges to be charged, but such covenants may not provide fees, rents and other charges for use of any Project; (iii) providing for the collection of revenues, fees, rents and other charges, and the custody, safeguarding and application of

all moneys of the Authority; (iv) providing for the creation of sinking funds and the creation and maintenance of reserves; and (v) setting forth conditions or limitations with respect to the incurrence of indebtedness or the granting of liens. Such trust indenture, trust or other agreement may set forth the rights and remedies of the bondholders and of the trustee or other agent for bondholders and may restrict the individual right of action by bondholders.

In addition, the Authority may grant security interests and other liens on its property, including its accounts receivable, to secure Bonds. All pledges of revenues of the Authority for payment of bonds shall be valid and binding from the time when the pledge is made, and the revenues pledged and thereafter received by the Authority shall be subject immediately to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. The Authority may also provide for the filing of any security interest or other lien, or any financing statement or other instrument, necessary or desirable to create, perfect or evidence any lien created pursuant to this act.

It shall be lawful for any bank or trust company within or without the Commonwealth to serve as depository of the proceeds of Bonds or of other revenues of the Authority and to furnish indemnifying bonds or to pledge such securities as may be required by the Authority.

§ 15. Except to the extent that the rights herein given may be restricted by such trust indenture or trust or other agreement, any holder of Bonds or coupons authorized under this act and the trustee or other agent for bondholders under any trust indenture or trust or other agreement may, either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted under this act or under such trust indenture, trust or other agreement, and may enforce and compel the performance of all duties required under this act or by such trust indenture, trust or other agreement, with respect to such Bonds or coupons, to be performed by the Authority or by any officer or agent thereof, including the fixing, charging and collecting of revenues, fees, rents and other charges.

§ 16. No member, officer, employee or agent of the Authority or any person executing Bonds of the Authority authorized under this act shall be liable personally on the Bonds by reason of their issuance or execution. Bonds of the Authority authorized under this act shall not be a debt or pledge of the full faith and credit of the Commonwealth or any political subdivision thereof other than the Authority and shall so state on their face. Neither the Commonwealth nor any political subdivision thereof other than the Authority shall be obligated to pledge taxing power or appropriate or otherwise be liable for payment of such Bonds of the Authority, nor shall such Bonds be payable out of any funds or properties of the Commonwealth or any political subdivision thereof other than those of the Authority. Bonds of the Authority authorized under this act are declared to be issued for an essential public and governmental purpose.

§ 17. Expenses. All expenses incurred under this act in connection with issuance of the Bonds shall be paid from the proceeds of such Bonds, or any refunding bonds or BANs, or from any other available funds as the Authority may determine.

§ 18. Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies and associations, all national banks and trust companies, and savings institutions, including savings and loan associations, in the Commonwealth, and all executors, administrators, trustees and other fiduciaries, both individual or corporate, may properly and legally invest funds within their control. Such Bonds are hereby made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of Bonds or obligations is now or may hereafter be authorized by law.

§ 19. Exemption of interest from tax. The Bonds and BANs issued under the provisions of this act, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be exempt from taxation by the Commonwealth and by any political subdivision thereof.

§ 20. If any part of this act or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, such holding shall not affect the validity of the remainder of the provisions or applications of the act, which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

3. That the following is the Eastern Virginia Regional Transportation Program Bond Act of 2002.

§ 1. Title. This act shall be known and may be cited as the "Eastern Virginia Regional Transportation Program Bond Act of 2002."

§ 2. For purposes of this act, the following definitions shall apply:

"Costs to construct" and "construction" mean the total costs to complete a Project including, but not limited to, environmental and engineering studies, rights-of-way acquisition, improvements to all modes of transportation, construction and related improvements.

"Eastern Virginia Transportation District" means the same as that term is defined in § 33.1-221.1:7 of the Code of Virginia.

"Planning District Commission" means the Hampton Roads Planning District Commission created pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Subtitle IV of Title 15.2 of the Code of Virginia.

"Program" means the Eastern Virginia Regional Transportation Program established pursuant to § 33.1-221.1:7 of the Code of Virginia.

"Project" or "Projects" means a transportation project or projects included in the program.

§ 3. The Program shall consist of the following Projects: Hampton Roads Third Crossing ((i) from I-664/I-64 Interchange (Peninsula) to Bowers Hill (I-664, I-64, I-264 Interchange), (ii) I-664 to I-564 Connector, and (iii) Craney Island to the Western Freeway (Route 164)); U.S. Route 460 (from Bowers Hill (I-664, I-64, I-264 Interchange) to Zuni); I-64 widening (from Bland Boulevard Interchange to James City/New Kent County lines); Southeastern Parkway and Greenbelt (from I-64 to I-264); Midtown Tunnel/Martin Luther King Freeway extension ((i) parallel Midtown Tunnel and (ii) Martin Luther King Freeway extension to I-264); and Passenger Rail/Magnetic Levitation Service and Support Bus Services in the Eastern Virginia Transportation District.

§ 4. The Planning District Commission is hereby authorized to issue at one time or from time to time bonds in an aggregate principal amount not exceeding \$5,990,000,000 to finance the costs of the Projects (exclusive of any obligations that may be issued to refund such notes) plus an amount for financing expenses (including without limitation, any original issue discount) (the "Bonds"). The net proceeds of the Bonds shall be used by the Planning District Commission, together with any other available funds, exclusively to pay the total costs to construct the Projects that comprise the program, consisting of environmental and engineering studies, rights-of-way acquisition, improvements to all modes of transportation, construction and related improvements. The Planning District Commission may also use the net proceeds of the Bonds for payment of interest on the Bonds for a period during construction and not exceeding one year after completion of construction of the Projects.

§ 5. The Projects, and the amount of bonds authorized to be issued for each such Project, are as follows and constitute the Eastern Virginia Regional Transportation Program:

Projects	Bond amount
Hampton Roads Crossing (Third Crossing)	
1. (From I-664/I-64 Interchange	
(Peninsula) to Bowers Hill (I-664, I-64,	
I-264 Interchange))	
2. I-664 to I-564 Connector	
3. Craney Island to the Western	
Freeway (Route 164)	\$2,975,000,000
U.S. Route 460 (From Bowers Hill (I-664, I-64,	
I-264 Interchange) to Zuni	705,000,000
I-64 Widening (From Bland Boulevard Interchange	
to James City/New Kent County Lines)	760,000,000
Southeastern Parkway and Greenbelt (From I-64	
to I-264)	710,000,000
Midtown Tunnel/Martin Luther King Freeway	-

1283	Extension	
1284		
1285	1. Parallel Midtown Tunnel	
1286		
1287	2. Martin Luther King Freeway Extension to	
1288		
1289	I-264	640,000,000
1290		
1291	Passenger Rail/Magnetic Levitation Service	
1292		
1293	and Support Bus Services in the Eastern	
1294		
1295	Virginia Transportation District	200,000,000
1296		
1297	Total	\$5,990,000,000

1298
 1299 *The Planning District Commission shall take such steps as are necessary for the Projects and*
 1300 *program to be constructed, subject to it having sufficient funds to pay the costs for the construction of a*
 1301 *Project or Projects, or any part thereof, as such costs become due and payable. Funds made available*
 1302 *by the Planning District Commission to pay such costs may include, but are not limited to, the net*
 1303 *proceeds of Planning District Commission bonds, including any premium received on the sale thereof,*
 1304 *and any federal, local or private funds or any other moneys that may be made available for such*
 1305 *purpose.*

1306 *The Planning District Commission may enter into a contract or other agreement with any state or*
 1307 *local agency, authority, commission or other person or entity to provide for the construction of a*
 1308 *Project or Projects, or any part thereof.*

1309 *To the extent that the cost of any Project listed above is less than the amount allocated to such*
 1310 *Project, the Planning District Commission may increase the amount allocated to any other Project listed*
 1311 *above. No such allocation to a Project may be increased, however, until it has been demonstrated to the*
 1312 *satisfaction of the Planning District Commission that the cost of the Project has been reduced to the*
 1313 *extent reasonable. No increase in the amount allocated to any Project shall constitute an authorization*
 1314 *for the issuance of bonds in an amount in excess of the aggregate amount authorized hereunder.*

1315 *After all Bonds as are necessary to pay for the construction of all Projects have been issued, to the*
 1316 *extent that the moneys distributed to the Planning District Commission pursuant to subsection D of*
 1317 *§ 58.1-604.5 of the Code of Virginia exceed the amount needed to pay annual debt service on Bonds*
 1318 *issued to support the Program Projects in any particular fiscal year, plus the amount needed in the*
 1319 *fiscal year to pay all other costs to administer all debts or obligations issued pursuant to this act, the*
 1320 *Planning District Commission shall cause such excess moneys to be applied to the retirement of the*
 1321 *Bonds and such other debts and obligations.*

1322 *§ 6. The Planning District Commission is hereby authorized to borrow money at such rate or rates*
 1323 *through the execution and issuance of notes for the same (hereinafter "anticipation notes" or "BANs"),*
 1324 *but only in the following circumstances and under the following conditions:*

1325 *a. In anticipation of the sale of the Bonds the issuance of which shall have been authorized and*
 1326 *approved by the Planning District Commission, if the Planning District Commission shall deem it*
 1327 *advisable to postpone the issuance of such Bonds; or*

1328 *b. For the renewal of any anticipation notes (BANs) herein authorized.*

1329 *§ 7. Application of Proceeds. Proceeds (including any premium) of the Bonds and any BANs (except*
 1330 *the proceeds of (i) Bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds and*
 1331 *(iii) refunding BANs) shall be deposited in a special capital outlay fund of the Planning District*
 1332 *Commission and shall be disbursed only for the purpose for which the Bonds or any BANs have been*
 1333 *issued. The proceeds of (a) Bonds the issuance of which has been anticipated by BANs, (b) refunding*
 1334 *bonds and (c) refunding BANs and any funds provided by the General Assembly, or available from any*
 1335 *other source, for the purpose, shall be used to pay such BANs, refunded bonds and refunded BANs.*

1336 *§ 8. The Planning District Commission is hereby authorized to receive any other funds that may be*
 1337 *made available to pay costs of the projects and to make available the same to the payment of the*
 1338 *principal or purchase price of, and redemption premium, if any, and interest on, the Bonds authorized*
 1339 *hereby.*

1340 *§ 9. The terms and structure of each issue of the Bonds shall be determined by the Planning District*
 1341 *Commission. The Bonds of each issue shall be dated, shall be issued in a principal amount (subject to*
 1342 *the limitation as to the aggregate principal amount set forth in § 4), shall bear interest at such rate or*

rates, which may be fixed, adjustable, variable or a combination thereof, and may be determined by a formula or other method, shall mature at such time or times not exceeding thirty-five years after the issuance thereof, and may be made subject to purchase or redemption before their maturity or maturities, at such price or prices and under such terms and conditions, all as may be determined by the Planning District Commission. The Planning District Commission shall determine the form of the Bonds, whether the Bonds are certificated or uncertificated, and fix the authorized denomination or denominations of the Bonds and the place or places of payment of principal or purchase price of, and redemption premium, if any, and interest on, the Bonds, which may be at the office of the Planning District Commission or any bank or trust company within or without the Commonwealth. The principal or purchase price of, and redemption premium, if any, and interest on, the Bonds shall be made payable in lawful money of the United States of America. Each issue of the Bonds may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments of principal or purchase price of and redemption premium, if any, and interest on such Bonds. All the Bonds shall have and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth.

The Planning District Commission may sell the Bonds from time to time at public or private sale, by competitive bidding, negotiated sale or private placement, for such price or prices as it may determine to be in the best interests of the Planning District Commission.

§ 10. The Bonds and BANs shall be signed on behalf of the Planning District Commission by the chairman or vice-chairman of the Planning District Commission, or shall bear the facsimile signature of such officer. In the event that the Bonds or BANs shall bear the facsimile signature of the chairman or vice-chairman of the Planning District Commission, they shall be signed by such administrative assistant as the chairman of the Planning District Commission shall determine or any registrar/paying agent that may be designated by the Planning District Commission. In case any officer whose signature or a facsimile of whose signature appears on any Bonds or BANs shall cease to be such officer before the delivery of such Bonds or BANs, such signature or facsimile signature nevertheless shall be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

§ 11. Refunding. The Planning District Commission is hereby authorized to sell and issue, at one time or from time to time, refunding bonds and BANs, to refund any or all of the Bonds and BANs, respectively, issued under this act. Refunding bonds or BANs may be issued in a principal amount up to the amount necessary to pay at maturity or redeem the Bonds and BANs to be refunded and pay all issuance costs and other financing expenses of the refunding. Such refunding bonds and BANs may be issued whether or not the Bonds or BANs to be refunded are then subject to redemption.

§ 12. Authorized Investments. Pending the application of the proceeds of the Bonds or BANs (including refunding bonds and BANs) to the purpose for which they have been authorized and the application of funds set aside for the purpose to the payment of Bonds or BANs, they may be invested by the Planning District Commission in legal investments under the laws of the Commonwealth for public funds and sinking funds, as the case may be. Whenever the Planning District Commission receives interest from the investment of the proceeds of Bonds or any BANs, such interest shall become a part of the principal of the Bonds or any BANs and shall be used in the same manner as required or permitted for principal of the Bonds or BANs.

§ 13. The Bonds authorized under § 4 may be issued without obtaining the consent of any commission, office, department, board, council, bureau, agency or other persons or entities of the Commonwealth or of any political subdivision of the Commonwealth, and without any proceedings or the happening of conditions or things other than those proceedings, conditions or things that are specifically required under this act. The Planning District Commission may issue such types of Bonds as it may determine consistent with the provisions of §§ 4 and 5 of this act and subject to § 16 of this act, including, without limitation, Bonds payable as to principal and interest from any one or more of the following sources: (i) its revenues generally, including all amounts deposited into the Special Fund Account of the Hampton Roads Planning District Commission pursuant to § 58.1-604.5 of the Code of Virginia; (ii) proceeds from the sale of Bonds; (iii) payments under letters of credit, policies of bond insurance, guarantees or other credit enhancements; (iv) any reserve or sinking funds created to secure such payment; or (v) other available funds of the Planning District Commission.

§ 14. Security for Bonds and BANs. The proceeds of (i) Bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds and (iii) refunding BANs are hereby irrevocably pledged for the payment of principal of and interest and any premium on such BANs or Bonds or BANs to be refunded thereby.

Any Bond authorized under this act may be issued pursuant to or secured by a trust indenture or by a trust or other agreement with a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth, or other agent for bondholders, or any combination thereof. Any such trust indenture or other agreement may pledge or assign revenues,

1404 fees, rents and other charges to be received and may contain provisions for protecting and enforcing the
1405 rights and remedies of the bondholders as may be reasonable and proper and not in violation of law.
1406 Such provisions may include covenants: (i) providing for the application of revenues and sale by the
1407 Planning District Commission, or any trustees under any trust indenture or agreement, of any property
1408 upon default, provided that in no case may any Project be subject to such sale; (ii) setting forth duties
1409 of the Planning District Commission in relation to the acquisition, construction, maintenance, operation
1410 and insurance of any property of the Planning District Commission and the amounts of fees, rents and
1411 other charges to be charged, but such covenants may not provide fees, rents and other charges for use
1412 of any Project; (iii) providing for the collection of revenues, fees, rents and other charges, and the
1413 custody, safeguarding and application of all moneys of the Planning District Commission; (iv) providing
1414 for the creation of sinking funds and the creation and maintenance of reserves; and (v) setting forth
1415 conditions or limitations with respect to the incurrence of indebtedness or the granting of liens. Such
1416 trust indenture, trust or other agreement may set forth the rights and remedies of the bondholders and
1417 of the trustee or other agent for bondholders and may restrict the individual right of action by
1418 bondholders.

1419 In addition, the Planning District Commission may grant security interests and other liens on its
1420 property, including its accounts receivable, to secure Bonds. All pledges of revenues of the Planning
1421 District Commission for payment of bonds shall be valid and binding from the time when the pledge is
1422 made, and the revenues pledged and thereafter received by the Planning District Commission shall be
1423 subject immediately to the lien of such pledge without any physical delivery thereof or further act, and
1424 the lien of any such pledge shall be valid and binding as against all parties having claims of any kind
1425 in tort, contract or otherwise against the Planning District Commission, irrespective of whether such
1426 parties have notice thereof. The Planning District Commission may also provide for the filing of any
1427 security interest or other lien, or any financing statement or other instrument, necessary or desirable to
1428 create, perfect or evidence any lien created pursuant to this act.

1429 It shall be lawful for any bank or trust company within or without the Commonwealth to serve as
1430 depository of the proceeds of Bonds or of other revenues of the Planning District Commission and to
1431 furnish indemnifying bonds or to pledge such securities as may be required by the Planning District
1432 Commission.

1433 § 15. Except to the extent that the rights herein given may be restricted by such trust indenture or
1434 trust or other agreement, any holder of Bonds or coupons authorized under this act and the trustee or
1435 other agent for bondholders under any trust indenture or trust or other agreement may, either at law or
1436 in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all
1437 rights under the laws of the Commonwealth or granted under this act or under such trust indenture,
1438 trust or other agreement, and may enforce and compel the performance of all duties required under this
1439 act or by such trust indenture, trust or other agreement, with respect to such Bonds or coupons, to be
1440 performed by the Planning District Commission or by any officer or agent thereof, including the fixing,
1441 charging and collecting of revenues, fees, rents and other charges.

1442 § 16. No member, officer, employee or agent of the Planning District Commission or any person
1443 executing Bonds of the Planning District Commission authorized under this act shall be liable
1444 personally on the Bonds by reason of their issuance or execution. Bonds of the Planning District
1445 Commission authorized under this act shall not be a debt or pledge of the full faith and credit of the
1446 Commonwealth or any political subdivision thereof other than the Planning District Commission and
1447 shall so state on their face. Neither the Commonwealth nor any political subdivision thereof other than
1448 the Planning District Commission shall be obligated to pledge taxing power or appropriate or otherwise
1449 be liable for payment of such Bonds of the Planning District Commission, nor shall such Bonds be
1450 payable out of any funds or properties of the Commonwealth or any political subdivision thereof other
1451 than those of the Planning District Commission. Bonds of the Planning District Commission authorized
1452 under this act are declared to be issued for an essential public and governmental purpose.

1453 § 17. Expenses. All expenses incurred under this act in connection with issuance of the Bonds shall
1454 be paid from the proceeds of such Bonds, or any refunding bonds or BANs, or from any other available
1455 funds as the Planning District Commission may determine.

1456 § 18. Bonds issued by the Planning District Commission under the provisions of this act are hereby
1457 made securities in which all public officers and public bodies of the Commonwealth and its political
1458 subdivisions, all insurance companies and associations, all national banks and trust companies, and
1459 savings institutions, including savings and loan associations, in the Commonwealth, and all executors,
1460 administrators, trustees and other fiduciaries, both individual or corporate, may properly and legally
1461 invest funds within their control. Such Bonds are hereby made securities that may properly and legally
1462 be deposited with and received by any state or municipal officer or any agency or political subdivision
1463 of the Commonwealth for any purpose for which the deposit of Bonds or obligations is now or may
1464 hereafter be authorized by law.

1465 § 19. Exemption of interest from tax. The Bonds and BANs issued under the provisions of this act,

their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be exempt from taxation by the Commonwealth and by any political subdivision thereof.

§ 20. If any part of this act or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, such holding shall not affect the validity of the remainder of the provisions or applications of the act, which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

4. That it shall be the duty of the regular election officers of this Commonwealth conducting the election directed by law to be held on Tuesday, November 5, 2002, at the places appointed for holding the same, to open a poll on such day and take the sense of the qualified voters of the Commonwealth upon the ratification or rejection of a one-half of one percent increase in the sales and use tax under §§ 58.1-603 and 58.1-604. Notice of the referendum shall be given, the ballots shall be prepared, distributed and voted, and the results thereof ascertained and certified, in accordance with Title 24.2 of the Code of Virginia, relating to special elections. The State Board of Elections shall comply with § 30-19.10 of the Code of Virginia and shall cause to be sent to the electoral boards of each county and city sufficient copies of the question contained herein for the officers of election to post in each polling place on election day.

The ballot shall contain the following question:

"QUESTION: Shall an additional sales and use tax of one-half of one percent be imposed in all jurisdictions of the Commonwealth beginning July 1, 2003, in accordance with § 58.1-603 and § 58.1-604 of the Code of Virginia, with the revenues distributed to counties and cities solely for expenses incurred in the operation of public schools and capital projects for public schools as provided in Chapter (. . .) of the Acts of Assembly of 2002?"

The State Board of Elections shall without delay make out and transmit to the Governor an official copy of the report of the whole number of votes cast at the election for and against the referendum question, certified by it. The expenses incurred in conducting this election shall be defrayed as in the case of election of members of the General Assembly.

5. That it shall be the duty of the regular election officers of the counties and cities described in subsections A and B of § 58.1-604.4 conducting the election directed by law to be held on Tuesday, November 5, 2002, at the places appointed for holding the same, to open a poll on such day and take the sense of the qualified voters of such counties and cities upon the ratification or rejection of a one-half of one percent sales and use tax pursuant to subsections A and B of § 58.1-604.4. Notice of the referendum shall be given, the ballots shall be prepared, distributed and voted, and the results thereof ascertained and certified, in accordance with Title 24.2 of the Code of Virginia, relating to special elections.

The ballot shall contain the following question:

"QUESTION: Shall an additional sales and use tax of one-half of one percent be imposed in Arlington County, Fairfax County, Loudoun County, Prince William County, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park beginning July 1, 2003, pursuant to subsections A and B of § 58.1-604.4 of the Code of Virginia, with the revenues to be used solely for regional transportation projects and programs as specified in Chapter (. . .) of the Acts of Assembly of 2002?"

The State Board of Elections shall cause to be sent to the electoral boards of such counties and cities sufficient copies of the full text of this act and the question contained herein for the officers of election to post in each polling place on election day. The State Board of Elections shall without delay make out and transmit to the Governor an official copy of the report of the whole number of votes cast at the election for and against the referendum question, certified by it. The expenses incurred in conducting this election shall be defrayed as in the case of election of members of the General Assembly.

6. That it shall be the duty of the regular election officers of the counties and cities described in subsections A and B of § 58.1-604.5 conducting the election directed by law to be held on Tuesday, November 5, 2002, at the places appointed for holding the same, to open a poll on such day and take the sense of the qualified voters of such counties and cities upon the ratification or rejection of a one percent sales and use tax pursuant to subsections A and B of § 58.1-604.5. Notice of the referendum shall be given, the ballots shall be prepared, distributed and voted, and the results thereof ascertained and certified, in accordance with Title 24.2 of the Code of Virginia, relating to special elections.

The ballot shall contain the following question:

"QUESTION: Shall an additional sales and use tax of one percent be imposed in Isle of Wight County, James City County, York County, the City of Chesapeake, the City of Hampton, the City of Newport News, the City of Norfolk, the City of Poquoson, the City of Portsmouth, the City of Suffolk, the City of Virginia Beach, and the City of Williamsburg, with the revenues to be used

1527 solely for regional transportation projects and programs as specified in Chapter (. . .) of the Acts
1528 of Assembly of 2002?"

1529 The State Board of Elections shall cause to be sent to the electoral boards of such counties and
1530 cities sufficient copies of the full text of this act and the question contained herein for the officers
1531 of election to post in each polling place on election day. The State Board of Elections shall without
1532 delay make out and transmit to the Governor an official copy of the report of the whole number
1533 of votes cast at the election for and against the referendum question, certified by it. The expenses
1534 incurred in conducting this election shall be defrayed as in the case of election of members of the
1535 General Assembly.

1536 7. That the sales and use tax, pursuant to subsections A and B of § 58.1-604.5, shall end upon final
1537 payment of the principal and interest on all bonds and other indebtedness issued pursuant to the
1538 second enactment of this act. The Hampton Roads Planning District Commission shall notify the
1539 Tax Commissioner no later than nine months prior to the projected date that such bonds and
1540 other indebtedness shall be paid in full. Upon such notification, the Tax Commissioner shall take
1541 such procedures as are necessary to ensure that such tax shall not be collected by dealers after
1542 midnight of the projected payout date. Such procedures shall include notifying dealers of the last
1543 day that such tax shall be collected.

1544 8. That the Department of Taxation shall promulgate all necessary and reasonable regulations to
1545 govern the administration of sales and use taxes pursuant to the provisions of this act, including,
1546 but not limited to, a bracket system for the collection of taxes in the Commonwealth on
1547 transactions of five dollars or less.

1548 9. That any moneys distributed to the Northern Virginia Transportation Authority from a one-half
1549 of one percent sales and use tax pursuant to subsections A and B of § 58.1-604.4 shall not be used
1550 to calculate or reduce the share of federal, state, or local revenues or funds otherwise available to
1551 the localities in the counties and cities described in subsections A and B of § 58.1-604.4, nor shall
1552 they be used to calculate or reduce any allocation of revenues or funds made pursuant to Title
1553 33.1 of the Code of Virginia. Such share or allocation of revenues or funds that shall not be
1554 reduced includes, but is not limited to, state basic aid payments.

1555 10. That any moneys distributed to the Hampton Roads Planning District Commission from a one
1556 percent sales and use tax pursuant to subsections A and B of § 58.1-604.5 shall not be used to
1557 calculate or reduce the share of federal, state, or local revenues or funds otherwise available to the
1558 localities in the counties and cities described in subsections A and B of § 58.1-604.5, nor shall they
1559 be used to calculate or reduce any allocation of revenues or funds made pursuant to Title 33.1 of
1560 the Code of Virginia. Such share or allocation of revenues or funds that shall not be reduced
1561 includes, but is not limited to, state basic aid payments.

1562 11. That revenues distributed to counties and cities from a one-half of one percent increase in the
1563 sales and use tax under §§ 58.1-603 and 58.1-604 shall not be used to calculate or reduce the share
1564 of federal, state, or local revenues or funds otherwise available to such counties and cities,
1565 including, but not limited to, state basic aid payments.

1566 12. That no city or county described in subsections A and B of § 58.1-604.4 may reduce its local
1567 contribution to Metrorail capital improvements below the amount it contributed for such
1568 improvements in its operating year that began in calendar year 2001.

1569 13. That the provisions of this act shall not require any county governing body that has heretofore
1570 adopted an ordinance providing for a local food and beverage tax pursuant to § 58.1-3833 or
1571 § 58.1-3842 to (i) submit an amendment to its meals tax ordinance to the voters in a referendum,
1572 (ii) unanimously adopt an amendment to its meals tax ordinance, or (iii) hold a public hearing to
1573 reflect in its local meals tax ordinance the provisions of this act.

1574 14. That the fourth enactment of this act shall be effective on July 1, 2002. The provisions of this
1575 act relating to a one-half of one percent increase in the sales and use tax under §§ 58.1-603 and
1576 58.1-604, including, but not limited to, the eleventh enactment of this act, shall be effective on July
1577 1, 2003, and only if a majority of those voting at the election and upon the question described in
1578 the fourth enactment of this act vote in the affirmative upon such question.

1579 15. That the fifth enactment of this act shall be effective on July 1, 2002. The provisions of this act
1580 relating to a one-half of one percent sales and use tax pursuant to subsections A and B of
1581 § 58.1-604.4, including, but not limited to, the second, ninth and twelfth enactments of this act,
1582 shall be effective on July 1, 2003, and only if a majority of those voting at the election and upon
1583 the question described in the fifth enactment of this act vote in the affirmative upon such question.
1584 For purposes of this enactment, "a majority of those voting at the election" means a majority of
1585 those voting in the entire region constituted by the counties and cities described in the fifth
1586 enactment of this act, and does not require a majority of those voting in any individual locality.

1587 16. That the sixth enactment of this act shall be effective on July 1, 2002. The provisions of this
1588 act relating to a one percent sales and use tax pursuant to subsections A and B of § 58.1-604.5,

including, but not limited to the third, seventh and tenth enactments of this act, shall be effective on July 1, 2003, and only if a majority of those voting at the election and upon the question described in the sixth enactment of this act vote in the affirmative upon such question. For purposes of this enactment, "a majority of those voting at the election" means a majority of those voting in the entire region constituted by the counties and cities described in the sixth enactment of this act, and does not require a majority of those voting in any individual locality.

17. That Article 22 (§§ 58.1-540 through 58.1-549) of Chapter 3 of Title 58.1 of the Code of Virginia is repealed effective July 1, 2003, provided that the question described in the fifth enactment of this act is affirmed in accordance with the respective vote required on such question under this act.

18. That §§ 58.1-627 and 58.1-628 are repealed effective July 1, 2003, provided that any of the referendum questions set forth in this act is affirmed in accordance with the respective vote required on such question under this act.

19. That if any clause, sentence, paragraph, section, or part of this act or the application thereof to any person, entity, or circumstance is adjudged invalid by any court of competent jurisdiction such judgment shall not affect the validity of the remainder hereof but shall be confined to the clause, sentence, paragraph, section, or part hereof directly involved in the controversy in which such judgment shall have been rendered, and to this end the provisions of this act are severable.