

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 58.1-302, 58.1-321, 58.1-322, 58.1-339.8, 58.1-391, 58.1-392,*
 3 *58.1-402, 58.1-441, 58.1-603, 58.1-604, 58.1-604.1, 58.1-605, 58.1-606, 58.1-609.3, 58.1-611.1,*
 4 *58.1-614, 58.1-626, 58.1-638, 58.1-639, 58.1-801, 58.1-803, 58.1-807, 58.1-808, 58.1-1001,*
 5 *58.1-1009, 58.1-1018, 58.1-1206, and 58.1-3833 of the Code of Virginia, to amend the Code of*
 6 *Virginia by adding in Title 32.1 a chapter numbered 15, consisting of sections numbered 32.1-366*
 7 *and 32.1-367, by adding sections numbered 58.1-390.1, 58.1-390.2, and 58.1-393.1, by adding in*
 8 *Article 9 of Chapter 3 of Title 58.1 sections numbered 58.1-394.1, 58.1-394.2, and 58.1-395, by*
 9 *adding sections numbered 58.1-628.2 and 58.1-638.1, and by adding in Chapter 10 of Title 58.1 an*
 10 *article numbered 2.1, consisting of sections numbered 58.1-1021.01 through 58.1-1021.05, and to*
 11 *repeal §§ 58.1-390, 58.1-394, 58.1-627, and 58.1-628 of the Code of Virginia, relating to revenues*
 12 *for appropriation throughout the Commonwealth and its localities.*

13 [H 5018]

14 Approved

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

16 **1. That §§ 58.1-302, 58.1-321, 58.1-322, 58.1-339.8, 58.1-391, 58.1-392, 58.1-402, 58.1-441, 58.1-603,**
 17 **58.1-604, 58.1-604.1, 58.1-605, 58.1-606, 58.1-609.3, 58.1-611.1, 58.1-614, 58.1-626, 58.1-638,**
 18 **58.1-639, 58.1-801, 58.1-803, 58.1-807, 58.1-808, 58.1-1001, 58.1-1009, 58.1-1018, 58.1-1206, and**
 19 **58.1-3833 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is**
 20 **amended by adding in Title 32.1 a chapter numbered 15, consisting of sections numbered 32.1-366**
 21 **and 32.1-367, by adding sections numbered 58.1-390.1, 58.1-390.2, and 58.1-393.1, by adding in**
 22 **Article 9 of Chapter 3 of Title 58.1 sections numbered 58.1-394.1, 58.1-394.2, and 58.1-395, by**
 23 **adding sections numbered 58.1-628.2 and 58.1-638.1, and by adding in Chapter 10 of Title 58.1 an**
 24 **article numbered 2.1, consisting of sections numbered 58.1-1021.01 through 58.1-1021.05, as**
 25 **follows:**

26 *CHAPTER 15.*27 *VIRGINIA HEALTH CARE FUND.*28 *§ 32.1-366. Virginia Health Care Fund Established.*

29 *A. There is hereby created in the state treasury a special nonreverting fund to be known as the*
 30 *Virginia Health Care Fund, hereafter referred to as the "Fund." The Fund shall be established on the*
 31 *books of the Comptroller and any moneys remaining in the Fund at the end of each fiscal year shall not*
 32 *revert to the general fund but shall remain in the Fund. For purposes of the Comptroller's preliminary*
 33 *and final annual reports required by § 2.2-813, however, all deposits to and disbursements from the*
 34 *Fund shall be accounted for as part of the general fund of the state treasury.*

35 *B. All revenue received by the Commonwealth pursuant to the provisions of §§ 58.1-1001 and*
 36 *58.1-1018 and Article 2.1 (§ 58.1-1021.01 et seq.) of Chapter 10 of Title 58.1 shall be paid into the*
 37 *state treasury and deposited to the Fund. The Comptroller shall also deposit 40 percent of the*
 38 *Commonwealth's allocation pursuant to the Master Settlement Agreement with tobacco product*
 39 *manufacturers, as defined in § 3.1-1106, to the Fund. The Fund shall also consist of all recoveries*
 40 *received during a fiscal year resulting from expenditures incurred in the Medicaid program during a*
 41 *prior fiscal year or years to the extent that such amounts represent recoveries of state funds that would*
 42 *otherwise be deposited to the general fund of the state treasury.*

43 *§ 32.1-367. Uses of Virginia Health Care Fund.*

44 *Moneys deposited to the Fund shall be used solely for the provision of health care services. Such*
 45 *moneys shall be appropriated as provided in the general appropriation act. Health care services*
 46 *include, but are not limited to, Medicaid payments, disease diagnosis, prevention and control, and*
 47 *community health services.*

48 *§ 58.1-302. Definitions.*49 *For the purpose of this chapter and unless otherwise required by the context:*

50 *"Affiliated" means two or more corporations subject to Virginia income taxes whose relationship to*
 51 *each other is such that (i) one corporation owns at least ~~eighty~~ 80 percent of the voting stock of the*
 52 *other or others or (ii) at least ~~eighty~~ 80 percent of the voting stock of two or more corporations is*
 53 *owned by the same interests.*

54 *"Compensation" means wages, salaries, commissions and any other form of remuneration paid or*
 55 *accrued to employees for personal services.*

56 *"Corporation" includes associations, joint stock companies and insurance companies.*

57 "Domicile" means the permanent place of residence of a taxpayer and the place to which he intends
 58 to return even though he may actually reside elsewhere. In determining domicile, consideration may be
 59 given to the applicant's expressed intent, conduct, and all attendant circumstances including, but not
 60 limited to, financial independence, business pursuits, employment, income sources, residence for federal
 61 income tax purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of
 62 personal and real property owned by the applicant, motor vehicle and other personal property
 63 registration, residence for purposes of voting as proven by registration to vote, if any, and such other
 64 factors as may reasonably be deemed necessary to determine the person's domicile.

65 "Foreign source income" means:

- 66 1. Interest, other than interest derived from sources within the United States;
- 67 2. Dividends, other than dividends derived from sources within the United States;
- 68 3. Rents, royalties, license, and technical fees from property located or services performed without
 69 the United States or from any interest in such property, including rents, royalties, or fees for the use of
 70 or the privilege of using without the United States any patents, copyrights, secret processes and
 71 formulas, good will, trademarks, trade brands, franchises, and other like properties;
- 72 4. Gains, profits, or other income from the sale of intangible or real property located without the
 73 United States; and
- 74 5. The amount of an individual's share of net income attributable to a foreign source qualified
 75 business unit of an electing small business corporation (S corporation). For purposes of this subsection,
 76 qualified business unit shall be defined by § 989 of the Internal Revenue Code, and the source of such
 77 income shall be determined in accordance with §§ 861, 862 and 987 of the Internal Revenue Code.

78 In determining the source of "foreign source income," the provisions of §§ 861, 862, and 863 of the
 79 Internal Revenue Code shall be applied except as specifically provided in subsection 5 above.

80 "Income and deductions from Virginia sources" includes:

- 81 1. Items of income, gain, loss and deduction attributable to:
 - 82 a. The ownership of any interest in real or tangible personal property in Virginia;
 - 83 b. A business, trade, profession or occupation carried on in Virginia; or
 - 84 c. Prizes paid by the Virginia Lottery Department, and gambling winnings from wagers placed or
 85 paid at a location in Virginia.
- 86 2. Income from intangible personal property, including annuities, dividends, interest, royalties and
 87 gains from the disposition of intangible personal property to the extent that such income is from
 88 property employed by the taxpayer in a business, trade, profession, or occupation carried on in Virginia.

89 "Individual" means all natural persons whether married or unmarried and fiduciaries acting for
 90 natural persons, but not fiduciaries acting for trusts or estates.

91 "*Intangible expenses and costs*" means:

- 92 1. *Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or
 93 indirect acquisition, use, maintenance or management, ownership, sale, exchange, lease, transfer, or any
 94 other disposition of intangible property to the extent such amounts are allowed as deductions or costs in
 95 determining taxable income;*
- 96 2. *Losses related to or incurred in connection directly or indirectly with factoring transactions or
 97 discounting transactions;*
- 98 3. *Royalty, patent, technical and copyright fees;*
- 99 4. *Licensing fees; and*
- 100 5. *Other similar expenses and costs.*

101 "*Intangible property*" means *patents, patent applications, trade names, trademarks, service marks,
 102 copyrights and similar types of intangible assets.*

103 "*Interest expenses and costs*" means *amounts directly or indirectly allowed as deductions under
 104 Section 163 of the Internal Revenue Code for purposes of determining taxable income under the Internal
 105 Revenue Code to the extent such expenses and costs are directly or indirectly for, related to, or in
 106 connection with the direct or indirect acquisition, use, maintenance, management, ownership, sale,
 107 exchange, lease, transfer, or disposition of intangible property.*

108 "Nonresident estate or trust" means an estate or trust which is not a resident estate or trust.

109 "*Related entity*" means:

- 110 1. *A stockholder who is an individual, or a member of the stockholder's family enumerated in Section
 111 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own,
 112 directly, indirectly, beneficially or constructively, in the aggregate, at least 50 percent of the value of
 113 the taxpayer's outstanding stock;*
- 114 2. *A stockholder, or a stockholder's partnership, limited liability company, estate, trust or
 115 corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates,
 116 trusts and corporations own directly, indirectly, beneficially or constructively, in the aggregate, at least
 117 50 percent of the value of the taxpayer's outstanding stock; or*

118 3. A corporation, or a party related to the corporation in a manner that would require an attribution
 119 of stock from the corporation to the party or from the party to the corporation under the attribution
 120 rules of Section 318 of the Internal Revenue Code, if the taxpayer owns, directly, indirectly, beneficially
 121 or constructively, at least 50 percent of the value of the corporation's outstanding stock. The attribution
 122 rules of Section 318 of the Internal Revenue Code shall apply for purposes of determining whether the
 123 ownership requirements of this subdivision have been met.

124 "Related member" means a person that, with respect to the taxpayer during all or any portion of the
 125 taxable year, is a related entity, a component member as defined in Section 1563(b) of the Internal
 126 Revenue Code, or is a person to or from whom there is attribution of stock ownership in accordance
 127 with Section 1563(e) of the Internal Revenue Code.

128 "Resident" applies only to natural persons and includes, for the purpose of determining liability for
 129 the taxes imposed by this chapter upon the income of any taxable year every person domiciled in
 130 Virginia at any time during the taxable year and every other person who, for an aggregate of more than
 131 183 days of the taxable year, maintained his place of abode within Virginia, whether domiciled in
 132 Virginia or not. The word "resident" shall not include any member of the United States Congress who is
 133 domiciled in another state.

134 "Resident estate or trust" means:

- 135 1. The estate of a decedent who at his death was domiciled in the Commonwealth;
- 136 2. A trust created by will of a decedent who at his death was domiciled in the Commonwealth;
- 137 3. A trust created by or consisting of property of a person domiciled in the Commonwealth; or
- 138 4. A trust or estate which is being administered in the Commonwealth.

139 "Sales" means all gross receipts of the corporation not allocated under § 58.1-407, except the sale or
 140 other disposition of intangible property shall include only the net gain realized from the transaction.

141 "State" means for purposes of Article 10 of this chapter any state of the United States, the District of
 142 Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any
 143 foreign country.

144 "Trust" or "estate" means a trust or estate, or a fiduciary thereof, which is required to file a fiduciary
 145 income tax return under the laws of the United States.

146 "Virginia fiduciary adjustment" means the net amount of the applicable modifications described in
 147 § 58.1-322 (including subsection E thereof if the estate or trust is a beneficiary of another estate or trust)
 148 which relate to items of income, gain, loss or deduction of an estate or trust. The fiduciary adjustment
 149 shall not include the modification in subsection D of § 58.1-322, except that the amount of state income
 150 taxes excluded from federal taxable income shall be included. The fiduciary adjustment shall also
 151 include the modification in subsection D of § 58.1-322, regarding the deduction for the purchase of a
 152 prepaid tuition contract or contribution to a savings trust account.

153 § 58.1-321. Exemptions and exclusions.

154 A. No tax levied pursuant to § 58.1-320 is imposed, nor any return required to be filed by:

155 1. A single individual where the Virginia adjusted gross income for such taxable year is less than
 156 \$3,000 for taxable years beginning before January 1, 1987; and less than \$5,000 for taxable years
 157 beginning on and after January 1, 1987; but before January 1, 2004.

158 A single individual where the Virginia adjusted gross income plus the modification specified in
 159 subdivision D 5 of § 58.1-322 for such taxable year is less than \$5,000 for taxable years beginning on
 160 and after January 1, 2004, but before January 1, 2005.

161 A single individual where the Virginia adjusted gross income plus the modification specified in
 162 subdivision D 5 of § 58.1-322 for such taxable year is less than \$7,000 for taxable years beginning on
 163 and after January 1, 2005.

164 2. An individual and spouse if their combined Virginia adjusted gross income for such taxable year
 165 is less than \$3,000 for taxable years beginning before January 1, 1987; and less than \$8,000 for taxable
 166 years beginning on and after January 1, 1987, (or one-half of such amount in the case of a married
 167 individual filing a separate return) but before January 1, 2004.

168 An individual and spouse if their combined Virginia adjusted gross income plus the modification
 169 specified in subdivision D 5 of § 58.1-322 is less than \$8,000 for taxable years beginning on and after
 170 January 1, 2004, (or one-half of such amount in the case of a married individual filing a separate
 171 return) but before January 1, 2005; and less than \$14,000 for taxable years beginning on and after
 172 January 1, 2005 (or one-half of such amount in the case of a married individual filing a separate
 173 return).

174 For the purposes of this section "Virginia adjusted gross income" means federal adjusted gross
 175 income for the taxable years with the modifications specified in § 58.1-322 B, § 58.1-322 C and the
 176 additional deductions allowed under § 58.1-322 D 2 b and D 5 for taxable years beginning before
 177 January 1, 2004. For taxable years beginning on and after January 1, 2004, Virginia adjusted gross
 178 income means federal adjusted gross income with the modifications specified in subsections B and C of

179 § 58.1-322.

180 B. Persons in the armed forces of the United States stationed on military or naval reservations within
181 Virginia who are not domiciled in Virginia shall not be held liable to income taxation for compensation
182 received from military or naval service.

183 § 58.1-322. Virginia taxable income of residents.

184 A. The Virginia taxable income of a resident individual means his federal adjusted gross income for
185 the taxable year, which excludes combat pay for certain members of the Armed Forces of the United
186 States as provided in § 112 of the Internal Revenue Code, as amended, and with the modifications
187 specified in this section.

188 B. To the extent excluded from federal adjusted gross income, there shall be added:

189 1. Interest, less related expenses to the extent not deducted in determining federal income, on
190 obligations of any state other than Virginia, or of a political subdivision of any such other state unless
191 created by compact or agreement to which Virginia is a party;

192 2. Interest or dividends, less related expenses to the extent not deducted in determining federal
193 taxable income, on obligations or securities of any authority, commission or instrumentality of the
194 United States, which the laws of the United States exempt from federal income tax but not from state
195 income taxes;

196 3. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

197 4. The amount of a lump sum distribution from a qualified retirement plan, less the minimum
198 distribution allowance and any amount excludable for federal income tax purposes that is excluded from
199 federal adjusted gross income solely by virtue of an individual's election to use the averaging provisions
200 under § 402 of the Internal Revenue Code; and

201 5. through 8. [Repealed.]

202 9. The amount required to be included in income for the purpose of computing the partial tax on an
203 accumulation distribution pursuant to § 667 of the Internal Revenue Code.

204 C. To the extent included in federal adjusted gross income, there shall be subtracted:

205 1. Income derived from obligations, or on the sale or exchange of obligations, of the United States
206 and on obligations or securities of any authority, commission or instrumentality of the United States to
207 the extent exempt from state income taxes under the laws of the United States including, but not limited
208 to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes,
209 interest on equipment purchase contracts, or interest on other normal business transactions.

210 2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth
211 or of any political subdivision or instrumentality of this Commonwealth.

212 3. [Repealed.]

213 4. Benefits received under Title II of the Social Security Act and other benefits subject to federal
214 income taxation solely pursuant to § 86 of the Internal Revenue Code.

215 4a. Through December 31, 2000, the same amount used in computing the federal credit allowed
216 under § 22 of the Internal Revenue Code by a retiree under age 65 who qualified for such retirement on
217 the basis of permanent and total disability and who is a qualified individual as defined in § 22 (b) (2) of
218 the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of
219 subsection D of this section may not also claim a subtraction under this subdivision.

220 4b. For taxable years beginning on or after January 1, 2001, up to \$20,000 of disability income, as
221 defined in § 22 (c) (2) (B) (iii) of the Internal Revenue Code; however, any person who claims a
222 deduction under subdivision 5 of subsection D of this section may not also claim a subtraction under
223 this subdivision.

224 5. The amount of any refund or credit for overpayment of income taxes imposed by the
225 Commonwealth or any other taxing jurisdiction.

226 6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not
227 deducted for federal purposes on account of the provisions of § 280C (a) of the Internal Revenue Code.

228 7, 8. [Repealed.]

229 9. [Expired.]

230 10. Any amount included therein less than \$600 from a prize awarded by the State Lottery
231 Department.

232 11. The wages or salaries received by any person for active and inactive service in the National
233 Guard of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar
234 days of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of
235 O3 and below shall be entitled to the deductions specified herein.

236 12. Amounts received by an individual, not to exceed \$1,000 in any taxable year, as a reward for
237 information provided to a law-enforcement official or agency, or to a nonprofit corporation created
238 exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of
239 perpetrators of crimes. This provision shall not apply to the following: an individual who is an employee

240 of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which
 241 the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

242 13. [Repealed.]

243 14. (Expires for taxable years beginning on and after January 1, 2004) The amount of any qualified
 244 agricultural contribution as determined in § 58.1-322.2.

245 15, 16. [Repealed.]

246 17. For taxable years beginning on and after January 1, 1995, the amount of "qualified research
 247 expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not
 248 deducted, on account of the provisions of § 280C (c) of the Internal Revenue Code and which shall be
 249 available to partners, shareholders of S corporations, and members of limited liability companies to the
 250 extent and in the same manner as other deductions may pass through to such partners, shareholders, and
 251 members.

252 18. For taxable years beginning on or after January 1, 1995, all military pay and allowances, not
 253 otherwise subtracted under this subsection, earned for any month during any part of which such member
 254 performed military service in any part of the former Yugoslavia, including the air space above such
 255 location or any waters subject to related naval operations, in support of Operation JOINT ENDEAVOR
 256 as part of the NATO Peace Keeping Force. Such subtraction shall be available until the taxpayer
 257 completes such service.

258 19. For taxable years beginning on and after January 1, 1996, any income received during the taxable
 259 year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the
 260 Internal Revenue Code, an individual retirement account or annuity established under § 408 of the
 261 Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code,
 262 or any federal government retirement program, the contributions to which were deductible from the
 263 taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or
 264 program were subject to taxation under the income tax in another state.

265 20. For taxable years beginning on and after January 1, 1997, any income attributable to a
 266 distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the
 267 Virginia College Savings Plan, created pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. The
 268 subtraction for any income attributable to a refund shall be limited to income attributable to a refund in
 269 the event of a beneficiary's death, disability, or receipt of a scholarship.

270 21. For taxable years beginning on or after January 1, 1998, all military pay and allowances, to the
 271 extent included in federal adjusted gross income and not otherwise subtracted, deducted or exempted
 272 under this section, earned by military personnel while serving by order of the President of the United
 273 States with the consent of Congress in a combat zone or qualified hazardous duty area which is treated
 274 as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

275 22. For taxable years beginning on or after January 1, 2000, the gain derived from the sale or
 276 exchange of real property or the sale or exchange of an easement to real property which results in the
 277 real property or the easement thereto being devoted to open-space use, as that term is defined in
 278 § 58.1-3230, for a period of time not less than 30 years. To the extent a subtraction is taken in
 279 accordance with this subdivision, no tax credit under this chapter for donating land for its preservation
 280 shall be allowed for three years following the year in which the subtraction is taken.

281 23. Effective for all taxable years beginning on or after January 1, 2000, \$15,000 of military basic
 282 pay for military service personnel on extended active duty for periods in excess of 90 days; however,
 283 the subtraction amount shall be reduced dollar-for-dollar by the amount which the taxpayer's military
 284 basic pay exceeds \$15,000 and shall be reduced to zero if such military basic pay amount is equal to or
 285 exceeds \$30,000.

286 24. Effective for all taxable years beginning on and after January 1, 2000, the first \$15,000 of salary
 287 for each federal and state employee whose annual salary is \$15,000 or less.

288 25. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

289 26. For taxable years beginning on and after January 1, 2001, any amount received as military
 290 retirement income by an individual awarded the Congressional Medal of Honor.

291 27. Effective for all taxable years beginning on and after January 1, 1999, income received as a
 292 result of (i) the "Master Settlement Agreement," as defined in § 3.1-1106; (ii) the National Tobacco
 293 Grower Settlement Trust dated July 19, 1999; and (iii) the Tobacco Loss Assistance Program, pursuant
 294 to 7 C.F.R. Part 1464 (Subpart C, §§ 1464.201 through 1464.205), by (a) tobacco farmers; (b) any
 295 person holding a tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural
 296 Adjustment Act of 1938; or (c) any person having the right to grow tobacco pursuant to such a quota or
 297 allotment, but only to the extent that such income has not been subtracted pursuant to subdivision C 18
 298 of § 58.1-402.

299 28. For taxable years beginning on and after January 1, 2000, items of income attributable to,
 300 derived from or in any way related to (i) assets stolen from, hidden from or otherwise lost by an

301 individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other
 302 consideration received by a victim or target of Nazi persecution to compensate such individual for
 303 performing labor against his will under the threat of death, during World War II and its prelude and
 304 direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with
 305 the proceeds from the sale of assets stolen from, hidden from or otherwise lost to, during World War II
 306 and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this
 307 subdivision shall only apply to an individual who was the first recipient of such items of income and
 308 who was a victim or target of Nazi persecution, or a spouse, widow, widower, or child or stepchild of
 309 such victim.

310 "Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by
 311 the Nazi regime who had assets stolen from, hidden from or otherwise lost as a result of any act or
 312 omission in any way relating to (i) the Holocaust; (ii) World War II and its prelude and direct
 313 aftermath; (iii) transactions with or actions of the Nazi regime; (iv) treatment of refugees fleeing Nazi
 314 persecution; or (v) the holding of such assets by entities or persons in the Swiss Confederation during
 315 World War II and its prelude and aftermath. A victim or target of Nazi persecution shall also include
 316 any individual forced into labor against his will, under the threat of death, during World War II and its
 317 prelude and direct aftermath. As used in this subdivision, "Nazi regime" means the country of Nazi
 318 Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any
 319 other neutral European country or area in Europe under the influence or threat of Nazi invasion.

320 29. For taxable years beginning on and after January 1, 2002, any gain recognized as a result of the
 321 Peanut Quota Buyout Program of the Farm Security and Rural Investment Act of 2002 pursuant to 7
 322 C.F.R. Part 1412 (Subpart H, §§ 1412.801 through 1412.811) as follows:

323 a. If the payment is received in installment payments pursuant to 7 C.F.R. § 1412.807(a)(2), then the
 324 entire gain recognized may be subtracted.

325 b. If the payment is received in a single payment pursuant to 7 C.F.R. § 1412.807(a)(3), then 20
 326 percent of the recognized gain may be subtracted. The taxpayer may then deduct an equal amount in
 327 each of the four succeeding taxable years.

328 30. Effective for all taxable years beginning on and after January 1, 2002, but before January 1,
 329 2005, the indemnification payments received by contract poultry growers and table egg producers from
 330 the U.S. Department of Agriculture as a result of the depopulation of poultry flocks because of low
 331 pathogenic avian influenza in 2002. In no event shall indemnification payments made to owners of
 332 poultry who contract with poultry growers qualify for this subtraction.

333 31. Effective for all taxable years beginning on or after January 1, 2001, the military death gratuity
 334 payment made after September 11, 2001, to the survivor of deceased military personnel killed in the line
 335 of duty, pursuant to Chapter 75 of Title 10 of the United States Code; however, the subtraction amount
 336 shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross
 337 income in accordance with § 134 of the Internal Revenue Code.

338 D. In computing Virginia taxable income there shall be deducted from ~~federal Virginia~~ adjusted gross
 339 income *as defined in § 58.1-321*:

340 1. a. The amount allowable for itemized deductions for federal income tax purposes where the
 341 taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the
 342 amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted
 343 on such federal return and increased by an amount which, when added to the amount deducted under
 344 § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for
 345 such purposes at a rate of 18 cents per mile; or

346 b. ~~Two thousand dollars for taxable years beginning January 1, 1987, through December 31, 1987;~~
 347 ~~\$2,700 for taxable years beginning January 1, 1988, through December 31, 1988; and \$5,000 for~~
 348 ~~married persons (one-half of such amounts in the case of a married individual filing a separate return);~~
 349 ~~and \$3,000~~ *Three thousand dollars for single individuals for taxable years beginning on and after*
 350 *January 1, 1989; \$5,000 for married persons (one-half of such amounts in the case of a married*
 351 *individual filing a separate return) for taxable years beginning on and after January 1, 1989, but before*
 352 *January 1, 2005; and \$6,000 for married persons (one-half of such amounts in the case of a married*
 353 *individual filing a separate return) for taxable years beginning on and after January 1, 2005; provided*
 354 *that the taxpayer has not itemized deductions for the taxable year on his federal income tax return. For*
 355 *purposes of this section, any person who may be claimed as a dependent on another taxpayer's return for*
 356 *the taxable year may compute the deduction only with respect to earned income.*

357 2. a. A deduction in the amount of ~~\$700 for taxable years beginning January 1, 1987, through~~
 358 ~~December 31, 1987, and \$800 for taxable years beginning on and after January 1, 1988, but before~~
 359 ~~January 1, 2006, and \$900 for taxable years beginning on and after January 1, 2006,~~ for each personal
 360 exemption allowable to the taxpayer for federal income tax purposes.

361 b. For taxable years beginning on and after January 1, 1987, each blind or aged taxpayer as defined

362 under § 63 (f) of the Internal Revenue Code shall be entitled to an additional personal exemption *in the*
 363 *amount of \$800.*

364 b. An additional deduction of \$200 for taxable years beginning January 1, 1987, through December
 365 31, 1987, for each blind or aged taxpayer as defined under § 63 (f) of the Internal Revenue Code. The
 366 additional deduction for blind or aged taxpayers allowed under this subdivision and the additional
 367 personal exemption allowed to blind or aged taxpayers under subdivision 2 a of this subsection shall be
 368 allowable regardless of whether the taxpayer itemizes deductions for the taxable year for federal income
 369 tax purposes.

370 3. A deduction equal to the amount of employment-related expenses upon which the federal credit is
 371 based under § 21 of the Internal Revenue Code for expenses for household and dependent care services
 372 necessary for gainful employment.

373 4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home under
 374 permanent foster care placement as defined in § 63.2-908, provided the taxpayer can also claim the child
 375 as a personal exemption under § 151 of the Internal Revenue Code.

376 5. a. Effective for all taxable years beginning on or after January 1, 1996, *but before January 1,*
 377 *2004,* a deduction in the amount of \$12,000 for taxpayers age 65 or older, or \$6,000 for taxpayers age
 378 62 through 64.

379 b. *For taxable years beginning on and after January 1, 2004, a deduction in the amount of \$12,000*
 380 *for individuals born on or before January 1, 1939.*

381 c. *For taxable years beginning January 1, 2004, but before January 1, 2005, a deduction in the*
 382 *amount of \$6,000 for individuals born on or between January 2, 1940, and January 1, 1942.*

383 d. *For taxable years beginning January 1, 2005, but before January 1, 2006, a deduction in the*
 384 *amount of \$6,000 for individuals born on or between January 2, 1941, and January 1, 1942.*

385 e. *For taxable years beginning on and after January 1, 2004, a deduction in the amount of \$12,000*
 386 *for individuals born after January 1, 1939, who have attained the age of 65. This deduction shall be*
 387 *reduced by \$1 for every \$1 that the taxpayer's adjusted federal adjusted gross income exceeds \$50,000*
 388 *for single taxpayers or \$75,000 for married taxpayers. For married taxpayers filing separately, the*
 389 *deduction will be reduced by \$1 for every \$1 the total combined adjusted federal adjusted gross income*
 390 *of both spouses exceeds \$75,000.*

391 f. *For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal*
 392 *adjusted gross income minus any benefits received under Title II of the Social Security Act and other*
 393 *benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code, as*
 394 *amended.*

395 6. For taxable years beginning on and after January 1, 1997, the amount an individual pays as a fee
 396 for an initial screening to become a possible bone marrow donor, if (i) the individual is not reimbursed
 397 for such fee or (ii) the individual has not claimed a deduction for the payment of such fee on his federal
 398 income tax return.

399 7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed
 400 during the taxable year for a prepaid tuition contract or savings trust account entered into with the
 401 Virginia College Savings Plan, pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. Except as
 402 provided in subdivision 7 c, the amount deducted on any individual income tax return in any taxable
 403 year shall be limited to \$2,000 per prepaid tuition contract or savings trust account. No deduction shall
 404 be allowed pursuant to this section if such payments or contributions are deducted on the purchaser's or
 405 contributor's federal income tax return. If the purchase price or annual contribution to a savings trust
 406 account exceeds \$2,000, the remainder may be carried forward and subtracted in future taxable years
 407 until the purchase price or savings trust contribution has been fully deducted; however, except as
 408 provided in subdivision 7 c, in no event shall the amount deducted in any taxable year exceed \$2,000
 409 per contract or savings trust account. Notwithstanding the statute of limitations on assessments contained
 410 in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year or years in
 411 which distributions or refunds are made for any reason other than (i) to pay qualified higher education
 412 expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or
 413 receipt of a scholarship. For the purposes of this subdivision, the term "purchaser" or "contributor"
 414 means the person shown as such on the records of the Virginia College Savings Plan as of December 31
 415 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or savings trust
 416 account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition
 417 contract or savings trust account, including, but not limited to, carryover and recapture of deductions.

418 b. The amount paid for a prepaid tuition contract during taxable years beginning on or after January
 419 1, 1996, but before January 1, 1998, shall be deducted in taxable years beginning on or after January 1,
 420 1998, and shall be subject to the limitations set out in subdivision 7 a.

421 c. A purchaser of a prepaid tuition contract or contributor to a savings trust account who has attained
 422 age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$2,000 per

423 prepaid tuition contract or savings trust account in any taxable year. Such taxpayer shall be allowed a
 424 deduction for the full amount paid for the contract or contributed to a savings trust account, less any
 425 amounts previously deducted. If a prepaid tuition contract was purchased by such taxpayer during
 426 taxable years beginning on or after January 1, 1996, but before January 1, 1998, such taxpayer may take
 427 the deduction for the full amount paid during such years, less any amounts previously deducted with
 428 respect to such payments, in taxable year 1999 or by filing an amended return for taxable year 1998.

429 8. For taxable years beginning on and after January 1, 2000, the total amount an individual actually
 430 contributed in funds to the Virginia Public School Construction Grants Program and Fund, established in
 431 Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1, provided the individual has not claimed a deduction for
 432 such amount on his federal income tax return.

433 9. For taxable years beginning on and after January 1, 1999, an amount equal to 20 percent of the
 434 tuition costs incurred by an individual employed as a primary or secondary school teacher licensed
 435 pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1 to attend continuing teacher education courses
 436 that are required as a condition of employment; however, the deduction provided by this subsection shall
 437 be available only if (i) the individual is not reimbursed for such tuition costs and (ii) the individual has
 438 not claimed a deduction for the payment of such tuition costs on his federal income tax return.

439 10. For taxable years beginning on and after January 1, 2000, the amount an individual pays
 440 annually in premiums for long-term health care insurance, provided the individual has not claimed a
 441 deduction for federal income tax purposes.

442 E. There shall be added to or subtracted from federal adjusted gross income, as the case may be, the
 443 individual's share, as beneficiary of an estate or trust, of the Virginia fiduciary adjustment determined
 444 under § 58.1-361.

445 F. There shall be added or subtracted, as the case may be, the amounts provided in § 58.1-315 as
 446 transitional modifications.

447 § 58.1-339.8. Income tax credit for low-income taxpayers.

448 A. As used in this section, unless the context requires otherwise:

449 "Family Virginia adjusted gross income" means the combined Virginia adjusted gross income of an
 450 individual, the individual's spouse, and any person claimed as a dependent on the individual's or his
 451 spouse's income tax return for the taxable year.

452 "Poverty guidelines" means the poverty guidelines for the ~~forty-eight~~ 48 contiguous states and the
 453 District of Columbia updated annually in the Federal Register by the U.S. Department of Health and
 454 Human Services under the authority of § 673 (2) of the Omnibus Budget Reconciliation Act of 1981.

455 "Virginia adjusted gross income" has the same meaning as the term is defined in § 58.1-321.

456 B. 1. For taxable years beginning on and after January 1, 2000, any individual or persons filing a
 457 joint return whose family Virginia adjusted gross income does not exceed ~~one hundred~~ 100 percent of
 458 the poverty guideline amount corresponding to a household of an equal number of persons as listed in
 459 the poverty guidelines published during such taxable year, shall be allowed a credit against the tax
 460 levied pursuant to § 58.1-320 in an amount equal to \$300 each for the individual, the individual's
 461 spouse, and any person claimed as a dependent on the individual's or married persons' income tax return
 462 for the taxable year. For any taxable year in which a husband and wife file separate Virginia income tax
 463 returns, the credit provided under this section shall be allowed against the tax for only one of such two
 464 tax returns. Additionally, the credit provided under this section shall not be allowed against such tax of
 465 a dependent of the individual or of married persons.

466 2. *For taxable years beginning on and after January 1, 2006, any individual or married persons,*
 467 *eligible for a tax credit pursuant to § 32 of the Internal Revenue Code, may for the taxable year, in lieu*
 468 *of the credit authorized under subdivision B 1, claim a credit against the tax imposed pursuant to*
 469 *§ 58.1-320 in an amount equal to 20 percent of the credit claimed by the individual or married persons*
 470 *for federal individual income taxes pursuant to § 32 of the Internal Revenue Code for the taxable year.*
 471 *In no case shall a household be allowed a credit pursuant to this subdivision and subdivision B 1 for*
 472 *the same taxable year.*

473 *For purpose of this subdivision, "household" means an individual and in the case of married*
 474 *persons, the individual and his spouse regardless of whether or not the individual and his spouse file*
 475 *combined or separate Virginia individual income tax returns.*

476 C. The amount of the credit provided pursuant to ~~this section~~ subsection B for any taxable year shall
 477 not exceed the individual's or married persons' Virginia income tax liability.

478 D. Notwithstanding any other provision of this section, ~~such~~ no credit shall ~~not~~ be allowed *pursuant*
 479 *to subsection B* in any taxable year in which the individual, the individual's spouse, or both, or any
 480 person claimed as a dependent on such individual's or married persons' income tax return, claims one or
 481 any combination of the following on his or their income tax return for such taxable year:

482 1. The subtraction under subdivision C 11 of § 58.1-322;

483 2. The subtraction under subdivision C 23 of § 58.1-322;

484 3. The subtraction under subdivision C 24 of § 58.1-322;

485 4. The deduction for the additional personal exemption for blind or aged taxpayers under subdivision

486 D 2 a b of § 58.1-322; or

487 5. The deduction under subdivision D 5 of § 58.1-322.

488 § 58.1-390.1. *Definitions.*

489 *The following words and terms, when used in this article, shall have the following meanings unless*

490 *the context clearly indicates otherwise:*

491 *"Owner" means any individual or entity who is treated as a partner, member, or shareholder of a*

492 *pass-through entity for federal income tax purposes.*

493 *"Pass-through entity" means any entity, including a limited partnership, a limited liability*

494 *partnership, a general partnership, a limited liability company, a professional limited liability company,*

495 *a business trust or a Subchapter S corporation, that is recognized as a separate entity for federal*

496 *income tax purposes, in which the partners, members or shareholders report their share of the income,*

497 *gains, losses, deductions and credits from the entity on their federal income tax returns.*

498 § 58.1-390.2. *Taxation of pass-through entities.*

499 *Except as provided for in this article, owners of pass-through entities shall be liable for tax under*

500 *this chapter only in their separate or individual capacities.*

501 § 58.1-391. *Virginia taxable income of owners of a pass-through entity.*

502 A. In determining Virginia taxable income of a ~~partner~~ *an owner*, any modification described in

503 § 58.1-322 ~~which~~ *that* relates to an item of ~~partnership~~ *pass-through entity* income, gain, loss or

504 deduction shall be made in accordance with the ~~partner's~~ *owner's* distributive share, for federal income

505 tax purposes, of the item to which the modification relates. Where a ~~partner's~~ *an owner's* distributive

506 share of any such item is not included in any category of income, gain, loss or deduction required to be

507 taken into account separately for federal income tax purposes, the ~~partner's~~ *owner's* distributive share of

508 such item shall be determined in accordance with his distributive share, for federal income tax purposes,

509 of ~~partnership~~ *pass-through entity* taxable income or loss.

510 B. Each item of ~~partnership~~ *pass-through entity* income, gain, loss or deduction shall have the same

511 character for a ~~partner~~ *an owner* under this chapter as for federal income tax purposes. Where an item is

512 not characterized for federal income tax purposes, it shall have the same character for a ~~partner~~ *an*

513 *owner* as if realized directly from the source from which realized by the ~~partnership~~ *pass-through entity*

514 or incurred in the same manner by the ~~partnership~~ *pass-through entity*.

515 C. Where a ~~partner's~~ *an owner's* distributive shares of an item of ~~partnership~~ *pass-through entity*

516 income, gain, loss or deduction is determined for federal income tax purposes by special provision in the

517 ~~partnership~~ *pass-through entity* agreement with respect to such item, and where the principal purpose of

518 such provision is the avoidance or evasion of tax under this chapter, the ~~partner's~~ *owner's* distributive

519 share of such item, and any modification required with respect thereto, shall be determined as if the

520 ~~partnership~~ *pass-through entity* agreement made no special provision with respect to such item.

521 § 58.1-392. *Reports by pass-through entities.*

522 ~~No report shall be required to be filed with the Department of Taxation by any partnership organized~~

523 ~~under the laws of the Commonwealth or having income from Virginia sources. However, the Tax~~

524 ~~Commissioner shall have the authority to promulgate regulations requiring that partnerships furnish~~

525 ~~copies of federal partnership returns and attached schedules or any other information which he deems~~

526 ~~necessary. In promulgating such regulations, the Tax Commissioner may prescribe the imposition of a~~

527 ~~penalty in the amount of \$100 for failure to comply, within a reasonable time, to the request for~~

528 ~~information as set forth therein.~~

529 A. *Every pass-through entity doing business in Virginia, or having income from Virginia sources,*

530 *shall make a return to the Department of Taxation on or before the fifteenth day of the fourth month*

531 *following the close of its taxable year. Such returns shall be made and filed in the manner prescribed by*

532 *the Department.*

533 B. *The return of a pass-through entity shall be signed by any one of the owners. An owner's name*

534 *signed on the return shall be prima facie evidence that such owner is authorized to sign the return on*

535 *behalf of the pass-through entity.*

536 C. *The Tax Commissioner may establish an income threshold for the filing of returns by*

537 *pass-through entities and their owners. Pass-through entities and owners with income below this*

538 *threshold shall not be required to file a return.*

539 D. *Receivers, trustees in dissolution, trustees in bankruptcy, and assignees operating the property or*

540 *business of pass-through entities must make and file returns of income for such pass-through entities. If*

541 *a receiver has full custody of and control over the business or property of a pass-through entity, he*

542 *shall be deemed to be operating such business or property, whether he is engaged in carrying on the*

543 *business for which the pass-through entity was organized or only in marshaling, selling, or disposing of*

544 *its assets for purposes of liquidation.*

545 *E. Pass-through entities may be required to file the return using an electronic medium prescribed by*
546 *the Tax Commissioner. The Tax Commissioner shall establish a minimum number of owners for the*
547 *electronic filing requirement. Waivers shall be granted only if the Tax Commissioner finds that the*
548 *requirement creates an unreasonable burden on the pass-through entity. All requests for waivers must be*
549 *submitted to the Tax Commissioner in writing. A pass-through entity that has fewer than the established*
550 *minimum number of owners may, at such pass-through entity's option, file such annual return on such*
551 *prescribed electronic medium in lieu of filing the annual return on paper.*

552 *§ 58.1-393.1. Extension of time for filing return by pass-through entity.*

553 *A. Whenever any pass-through entity has been allowed or granted an extension of time within which*
554 *to file any federal report of its income for any taxable year, the due date for the filing of the report or*
555 *return required by this article shall be extended to the date six months after such due date, or 30 days*
556 *after the extended date for filing the federal report, whichever is later.*

557 *B. In addition, the Department may grant an extension or extensions of time not to exceed a*
558 *maximum of six months beyond the due date required by this article for filing such pass-through entity*
559 *return.*

560 *§ 58.1-394.1. Failure of pass-through entity to make a return.*

561 *A. Any pass-through entity that fails to file a return required by this article within the time required*
562 *shall be liable for a penalty of \$200 if the failure is for not more than one month, with an additional*
563 *\$200 for each additional month or fraction thereof during which such failure to file continues, not*
564 *exceeding six months in the aggregate. In no case, however, shall the penalty be less than \$200.*

565 *B. If any pass-through entity's failure to file a return required by this article exceeds six months, the*
566 *Department shall assess a penalty of six percent of the total amount of Virginia taxable income derived*
567 *by its owners from the pass-through entity for the taxable year. The Department may determine such*
568 *penalty from any information in its possession. The penalty assessed pursuant to this subsection shall be*
569 *reduced by the penalty assessed pursuant to subsection A and any tax paid by the owners on their share*
570 *of income from the pass-through entity for the taxable year.*

571 *C. The penalties set forth in this subsection shall be assessed and collected by the Department in the*
572 *manner provided for the assessment and collection of taxes under this chapter or in a civil action, at the*
573 *instance of the Department. In addition, such pass-through entity shall be compellable by mandamus to*
574 *file such return.*

575 *§ 58.1-394.2. Fraudulent returns, etc., of pass-through entities; penalty.*

576 *A. Any officer or owner of any pass-through entity who makes a fraudulent return or statement with*
577 *the intent of assisting or facilitating the evasion of the payment of the taxes prescribed by this chapter*
578 *by the pass-through entity or an owner shall be liable for a penalty of not more than \$1,000, to be*
579 *assessed and collected in the manner provided for the assessment and collection of taxes under this*
580 *chapter or in a civil action, at the instance of the Department.*

581 *B. In addition to other penalties provided by law, any officer or owner of a pass-through entity who*
582 *makes a fraudulent return or statement with the intent of assisting or facilitating the evasion of the*
583 *payment of the taxes prescribed by this chapter by the pass-through entity or an owner, or who willfully*
584 *fails or refuses to make a return required by this chapter at the time or times required by law shall be*
585 *guilty of a Class 1 misdemeanor. A prosecution under this section shall be commenced within five years*
586 *next after the commission of the offense.*

587 *§ 58.1-395. Nonresident owners.*

588 *Pass-through entities may make written application to the Tax Commissioner for permission to file a*
589 *statement of combined pass-through entity income attributable to nonresident owners and thereby relieve*
590 *nonresident owners from filing individual nonresident returns. The application must state the reasons for*
591 *seeking such permission. The Tax Commissioner, in his sole discretion, may, for good cause, grant*
592 *permission to file a combined nonresident return upon such terms as he may determine.*

593 *§ 58.1-402. Virginia taxable income.*

594 *A. For purposes of this article, Virginia taxable income for a taxable year means the federal taxable*
595 *income and any other income taxable to the corporation under federal law for such year of a corporation*
596 *adjusted as provided in subsections B, C and D.*

597 *For a regulated investment company and a real estate investment trust, such term means the*
598 *"investment company taxable income" and "real estate investment trust taxable income," respectively, to*
599 *which shall be added in each case any amount of capital gains and any other income taxable to the*
600 *corporation under federal law which shall be further adjusted as provided in subsections B, C and D.*

601 *B. There shall be added to the extent excluded from federal taxable income:*

602 *1. Interest, less related expenses to the extent not deducted in determining federal taxable income, on*
603 *obligations of any state other than Virginia, or of a political subdivision of any such other state unless*
604 *created by compact or agreement to which the Commonwealth is a party;*

605 *2. Interest or dividends, less related expenses to the extent not deducted in determining federal*

606 taxable income, on obligations or securities of any authority, commission or instrumentality of the
 607 United States, which the laws of the United States exempt from federal income tax but not from state
 608 income taxes;

609 3. [Repealed.]

610 4. The amount of any net income taxes and other taxes, including franchise and excise taxes, which
 611 are based on, measured by, or computed with reference to net income, imposed by the Commonwealth
 612 or any other taxing jurisdiction, to the extent deducted in determining federal taxable income;

613 5. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

614 6. The amount of employee stock ownership credit carry-over deducted by the corporation in
 615 computing federal taxable income under § 404 (i) of the Internal Revenue Code;

616 7. The amount required to be included in income for the purpose of computing the partial tax on an
 617 accumulation distribution pursuant to § 667 of the Internal Revenue Code;

618 8. *a. For taxable years beginning on and after January 1, 2004, the amount of any intangible*
 619 *expenses and costs directly or indirectly paid, accrued, or incurred to, or in connection directly or*
 620 *indirectly with one or more direct or indirect transactions with one or more related members to the*
 621 *extent such expenses and costs were deductible or deducted in computing federal taxable income for*
 622 *Virginia purposes. This addition shall not be required for any portion of the intangible expenses and*
 623 *costs if one of the following applies:*

624 (1) *The corresponding item of income received by the related member is subject to a tax based on or*
 625 *measured by net income or capital imposed by Virginia, another state, or a foreign government that has*
 626 *entered into a comprehensive tax treaty with the United States government;*

627 (2) *The related member derives at least one-third of its gross revenues from the licensing of*
 628 *intangible property to parties who are not related members, and the transaction giving rise to the*
 629 *expenses and costs between the corporation and the related member was made at rates and terms*
 630 *comparable to the rates and terms of agreements that the related member has entered into with parties*
 631 *who are not related members for the licensing of intangible property; or*

632 (3) *The corporation can establish to the satisfaction of the Tax Commissioner that the intangible*
 633 *expenses and costs meet both of the following: (i) the related member during the same taxable year*
 634 *directly or indirectly paid, accrued or incurred such portion to a person who is not a related member,*
 635 *and (ii) the transaction giving rise to the intangible expenses and costs between the corporation and the*
 636 *related member did not have as a principal purpose the avoidance of any portion of the tax due under*
 637 *this chapter.*

638 *b. A corporation required to add to its federal taxable income intangible expenses and costs*
 639 *pursuant to subdivision a may petition the Tax Commissioner, after filing the related income tax return*
 640 *for the taxable year and remitting to the Tax Commissioner all taxes, penalties, and interest due under*
 641 *this article for such taxable year including tax upon any amount of intangible expenses and costs*
 642 *required to be added to federal taxable income pursuant to subdivision a, to consider evidence relating*
 643 *to the transaction or transactions between the corporation and a related member or members that*
 644 *resulted in the corporation's taxable income being increased, as required under subdivision a, for such*
 645 *intangible expenses and costs.*

646 *If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and*
 647 *convincing evidence, that the transaction or transactions between the corporation and a related member*
 648 *or members resulting in such increase in taxable income pursuant to subdivision a had a valid business*
 649 *purpose other than the avoidance or reduction of the tax due under this chapter, the Tax Commissioner*
 650 *shall permit the corporation to file an amended return. For purposes of such amended return, the*
 651 *requirements of subdivision a shall not apply to any transaction for which the Tax Commissioner is*
 652 *satisfied (and has identified) that the transaction had a valid business purpose other than the avoidance*
 653 *or reduction of the tax due under this chapter. Such amended return shall be filed by the corporation*
 654 *within one year of the written permission granted by the Tax Commissioner and any refund of the tax*
 655 *imposed under this article shall include interest at a rate equal to the rate of interest established under*
 656 *§ 58.1-15 and such interest shall accrue as provided under § 58.1-1833. However, upon the filing of*
 657 *such amended return, any related member of the corporation that subtracted from taxable income*
 658 *amounts received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on*
 659 *that portion of such amounts for which the corporation has filed an amended return pursuant to this*
 660 *subdivision. In addition, for such transactions identified by the Tax Commissioner herein by which he*
 661 *has been satisfied by clear and convincing evidence, the Tax Commissioner may permit the corporation*
 662 *in filing income tax returns for subsequent taxable years to deduct the related intangible expenses and*
 663 *costs without making the adjustment under subdivision a.*

664 *The Tax Commissioner may charge a fee for all direct and indirect costs relating to the review of*
 665 *any petition pursuant to this subdivision, to include costs necessary to secure outside experts in*
 666 *evaluating the petition. The Tax Commissioner may condition the review of any petition pursuant to this*

667 subdivision upon payment of such fee.

668 No suit for the purpose of contesting any action of the Tax Commissioner under this subdivision
669 shall be maintained in any court of this Commonwealth.

670 c. Nothing in subdivision B 8 shall be construed to limit or negate the Department's authority under
671 § 58.1-446;

672 9. a. For taxable years beginning on and after January 1, 2004, the amount of any interest expenses
673 and costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with
674 one or more direct or indirect transactions with one or more related members to the extent such
675 expenses and costs were deductible or deducted in computing federal taxable income for Virginia
676 purposes. This addition shall not be required for any portion of the interest expenses and costs, if:

677 (1) The related member has substantial business operations relating to interest-generating activities,
678 in which the related member pays expenses for at least five full-time employees who maintain, manage,
679 defend or are otherwise responsible for operations or administration relating to the interest-generating
680 activities; and

681 (2) The interest expenses and costs are not directly or indirectly for, related to or in connection with
682 the direct or indirect acquisition, maintenance, management, sale, exchange, or disposition of intangible
683 property; and

684 (3) The transaction giving rise to the expenses and costs between the corporation and the related
685 member has a valid business purpose other than the avoidance or reduction of taxation and payments
686 between the parties are made at arm's length rates and terms; and

687 (4) One of the following applies:

688 (i). The corresponding item of income received by the related member is subject to a tax based on or
689 measured by net income or capital imposed by Virginia, another state, or a foreign government that has
690 entered into a comprehensive tax treaty with the United States government;

691 (ii). Payments arise pursuant to a pre-existing contract entered into when the parties were not
692 related members provided the payments continue to be made at arm's length rates and terms;

693 (iii). The related member engages in transactions with parties other than related members that
694 generate revenue in excess of \$2 million annually; or

695 (iv). The transaction giving rise to the interest payments between the corporation and a related
696 member was done at arm's length rates and terms and meets any of the following: (a) the related
697 member uses funds that are borrowed from a party other than a related member or that are paid,
698 incurred or passed-through to a person who is not a related member; (b) the debt is part of a regular
699 and systematic funds management or portfolio investment activity conducted by the related member,
700 whereby the funds of two or more related members are aggregated for the purpose of achieving
701 economies of scale, the internal financing of the active business operations of members, or the benefit of
702 centralized management of funds; (c) financing the expansion of the business operations; or (d)
703 restructuring the debt of related members, or the pass-through of acquisition-related indebtedness to
704 related members.

705 b. A corporation required to add to its federal taxable income interest expenses and costs pursuant
706 to subdivision a may petition the Tax Commissioner, after filing the related income tax return for the
707 taxable year and remitting to the Tax Commissioner all taxes, penalties, and interest due under this
708 article for such taxable year including tax upon any amount of interest expenses and costs required to
709 be added to federal taxable income pursuant to subdivision a, to consider evidence relating to the
710 transaction or transactions between the corporation and a related member or members that resulted in
711 the corporation's taxable income being increased, as required under subdivision a, for such interest
712 expenses and costs.

713 If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and
714 convincing evidence, that the transaction or transactions between the corporation and a related member
715 or members resulting in such increase in taxable income pursuant to subdivision a had a valid business
716 purpose other than the avoidance or reduction of the tax due under this chapter and that the related
717 payments between the parties were made at arm's length rates and terms, the Tax Commissioner shall
718 permit the corporation to file an amended return. For purposes of such amended return, the
719 requirements of subdivision a shall not apply to any transaction for which the Tax Commissioner is
720 satisfied (and has identified) that the transaction had a valid business purpose other than the avoidance
721 or reduction of the tax due under this chapter and that the related payments between the parties were
722 made at arm's length rates and terms. Such amended return shall be filed by the corporation within one
723 year of the written permission granted by the Tax Commissioner and any refund of the tax imposed
724 under this article shall include interest at a rate equal to the rate of interest established under § 58.1-15
725 and such interest shall accrue as provided under § 58.1-1833. However, upon the filing of such
726 amended return, any related member of the corporation that subtracted from taxable income amounts
727 received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on that

728 portion of such amounts for which the corporation has filed an amended return pursuant to this
 729 subdivision. In addition, for such transactions identified by the Tax Commissioner herein by which he
 730 has been satisfied by clear and convincing evidence, the Tax Commissioner may permit the corporation
 731 in filing income tax returns for subsequent taxable years to deduct the related interest expenses and
 732 costs without making the adjustment under subdivision a.

733 The Tax Commissioner may charge a fee for all direct and indirect costs relating to the review of
 734 any petition pursuant to this subdivision, to include costs necessary to secure outside experts in
 735 evaluating the petition. The Tax Commissioner may condition the review of any petition pursuant to this
 736 subdivision upon payment of such fee.

737 No suit for the purpose of contesting any action of the Tax Commissioner under this subdivision
 738 shall be maintained in any court of this Commonwealth.

739 c. Nothing in subdivision B 9 shall be construed to limit or negate the Department's authority under
 740 § 58.1-446.

741 d. For purposes of subdivision B 9:

742 "Arm's length rates and terms" means that (i) two or more related members enter into a written
 743 agreement for the transaction, (ii) such agreement is of a duration and contains payment terms
 744 substantially similar to those that the related member would be able to obtain from an unrelated entity,
 745 (iii) the interest is at or below the applicable federal rate compounded annually for debt instruments
 746 under § 1274(d) of the Internal Revenue Code that was in effect at the time of the agreement, and (iv)
 747 the borrower or payor adheres to the payment terms of the agreement governing the transaction or any
 748 amendments thereto.

749 "Valid business purpose" means one or more business purposes that alone or in combination
 750 constitute the motivation for some business activity or transaction, which activity or transaction
 751 improves, apart from tax effects, the economic position of the taxpayer, as further defined by regulation.

752 C. There shall be subtracted to the extent included in and not otherwise subtracted from federal
 753 taxable income:

754 1. Income derived from obligations, or on the sale or exchange of obligations, of the United States
 755 and on obligations or securities of any authority, commission or instrumentality of the United States to
 756 the extent exempt from state income taxes under the laws of the United States including, but not limited
 757 to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes,
 758 interest on equipment purchase contracts, or interest on other normal business transactions.

759 2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth
 760 or of any political subdivision or instrumentality of this Commonwealth.

761 3. Dividends upon stock in any domestic international sales corporation, as defined by § 992 of the
 762 Internal Revenue Code, 50 percent or more of the income of which was assessable for the preceding
 763 year, or the last year in which such corporation has income, under the provisions of the income tax laws
 764 of the Commonwealth.

765 4. The amount of any refund or credit for overpayment of income taxes imposed by this
 766 Commonwealth or any other taxing jurisdiction.

767 5. Any amount included therein by the operation of the provisions of § 78 of the Internal Revenue
 768 Code (foreign dividend gross-up).

769 6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not
 770 deducted for federal purposes on account of the provisions of § 280C (a) of the Internal Revenue Code.

771 7. Any amount included therein by the operation of § 951 of the Internal Revenue Code (subpart F
 772 income).

773 8. Any amount included therein which is foreign source income as defined in § 58.1-302.

774 9. [Repealed.]

775 10. The amount of any dividends received from corporations in which the taxpaying corporation
 776 owns 50 percent or more of the voting stock.

777 11. [Repealed.]

778 12. [Expired.]

779 13. (Expires for taxable years beginning on and after January 1, 2004) The amount of any qualified
 780 agricultural contribution as determined in § 58.1-322.2.

781 14. For taxable years beginning on or after January 1, 1995, the amount for "qualified research
 782 expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not
 783 deducted, on account of the provisions of § 280C (c) of the Internal Revenue Code.

784 15. For taxable years beginning on or after January 1, 2000, the total amount actually contributed in
 785 funds to the Virginia Public School Construction Grants Program and Fund established in Chapter 11.1
 786 (§ 22.1-175.1 et seq.) of Title 22.1.

787 16. For taxable years beginning on or after January 1, 2000, the gain derived from the sale or
 788 exchange of real property or the sale or exchange of an easement to real property which results in the

789 real property or the easement thereto being devoted to open-space use, as that term is defined in
790 § 58.1-3230, for a period of time not less than 30 years. To the extent a subtraction is taken in
791 accordance with this subdivision, no tax credit under this chapter for donating land for its preservation
792 shall be allowed for three years following the year in which the subtraction is taken.

793 17. For taxable years beginning on and after January 1, 2001, any amount included therein with
794 respect to § 58.1-440.1.

795 18. For taxable years beginning on and after January 1, 1999, income received as a result of (i) the
796 "Master Settlement Agreement," as defined in § 3.1-1106; (ii) the National Tobacco Grower Settlement
797 Trust dated July 19, 1999; and (iii) the Tobacco Loss Assistance Program, pursuant to 7 C.F.R. Part
798 1464 (Subpart C, §§ 1464.201 through 1464.205), by (a) tobacco farming businesses; (b) any business
799 holding a tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural
800 Adjustment Act of 1938; or (c) any business having the right to grow tobacco pursuant to such a quota
801 allotment.

802 19. Effective for all taxable years beginning on and after January 1, 2002, but before January 1,
803 2005, the indemnification payments received by contract poultry growers and table egg producers from
804 the U.S. Department of Agriculture as a result of the depopulation of poultry flocks because of low
805 pathogenic avian influenza in 2002. In no event shall indemnification payments made to owners of
806 poultry who contract with poultry growers qualify for this subtraction.

807 20. For taxable years beginning on and after January 1, 2002, any gain recognized as a result of the
808 Peanut Quota Buyout Program of the Farm Security and Rural Investment Act of 2002 pursuant to 7
809 C.F.R. Part 1412 (Subpart H, §§ 1412.801 through 1412.811) as follows:

810 a. If the payment is received in installment payments pursuant to 7 C.F.R. § 1412.807(a)(2), then the
811 entire gain recognized may be subtracted.

812 b. If the payment is received in a single payment pursuant to 7 C.F.R. § 1412.807(a)(3), then 20
813 percent of the recognized gain may be subtracted. The taxpayer may then deduct an equal amount in
814 each of the four succeeding taxable years.

815 21. *For taxable years beginning on and after January 1, 2004, any amount of intangible expenses*
816 *and costs or interest expenses and costs added to the federal taxable income of a corporation pursuant*
817 *to subdivision B 8 or B 9 shall be subtracted from the federal taxable income of the related member*
818 *that received such amount if such related member is subject to Virginia income tax on the same amount.*

819 D. Adjustments to federal taxable income shall be made to reflect the transitional modifications
820 provided in § 58.1-315.

821 § 58.1-441. Reports by corporations.

822 A. Every corporation organized under the laws of the Commonwealth, or having income from
823 Virginia sources, *other than a Subchapter S corporation subject to the return filing requirements of*
824 *§ 58.1-392*, shall make a report to the Department on or before the fifteenth day of the fourth month
825 following the close of its taxable year. Such reports shall be made on forms prescribed by the
826 Department and shall contain such information, including the gross receipts from any business carried on
827 in the Commonwealth and a depreciation schedule of property used in such trade or business, as may be
828 necessary for the proper enforcement of this chapter and be accompanied by a copy of any federal tax
829 return or report filed for such taxable year. The Department shall not require any nonprofit organization
830 created exclusively to assist a law-enforcement official or agency in apprehending and convicting
831 perpetrators of crimes, to report on such returns, or otherwise, the names of individuals or amounts paid
832 to such individuals by the organization for providing information about certain crimes.

833 Receivers, trustees in dissolution, trustees in bankruptcy, and assignees, operating the property or
834 business of corporations must make returns of income for such corporations. If a receiver has full
835 custody of and control over the business or property of a corporation, he shall be deemed to be
836 operating such business or property, whether he is engaged in carrying on the business for which the
837 corporation was organized or only in marshaling, selling, or disposing of its assets for purposes of
838 liquidation.

839 B. Notwithstanding the provisions of subsection A, every organization to whom subdivision 5 of
840 § 58.1-401 applies, and having unrelated business taxable income or other taxable income, shall make a
841 report to the Department on or before the fifteenth day of the sixth month following the close of the
842 organization's taxable year.

843 § 58.1-603. Imposition of sales tax.

844 There is hereby levied and imposed, in addition to all other taxes and fees of every kind now
845 imposed by law, a license or privilege tax upon every person who engages in the business of selling at
846 retail or distributing tangible personal property in this Commonwealth, or who rents or furnishes any of
847 the things or services taxable under this chapter, or who stores for use or consumption in this
848 Commonwealth any item or article of tangible personal property as defined in this chapter, or who
849 leases or rents such property within this Commonwealth, in the amount of three and one-half percent

850 *through midnight on July 31, 2004, and four percent beginning on and after August 1, 2004:*

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

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

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

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

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

861 § 58.1-604. Imposition of use tax.

862 There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a
863 tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of
864 such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount
865 of three and one-half percent *through midnight on July 31, 2004, and four percent beginning on and*
866 *after August 1, 2004:*

867 1. Of the cost price of each item or article of tangible personal property used or consumed in this
868 Commonwealth. Tangible personal property which has been acquired for use outside this Commonwealth
869 and subsequently becomes subject to the tax imposed hereunder shall be taxed on the basis of its cost
870 price if such property is brought within this Commonwealth for use within six months of its acquisition;
871 but if so brought within this Commonwealth six months or more after its acquisition, such property shall
872 be taxed on the basis of the current market value (but not in excess of its cost price) of such property at
873 the time of its first use within this Commonwealth. Such tax shall be based on such proportion of the
874 cost price or current market value as the duration of time of use within this Commonwealth bears to the
875 total useful life of such property (but it shall be presumed in all cases that such property will remain
876 within this Commonwealth for the remainder of its useful life unless convincing evidence is provided to
877 the contrary).

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

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

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

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

887 § 58.1-604.1. Use tax on motor vehicles, machinery, tools and equipment brought into Virginia for
888 use in performing contracts.

889 In addition to the use tax levied pursuant to § 58.1-604 and notwithstanding the provisions of
890 § 58.1-611, a use tax is levied upon the storage or use of all motor vehicles, machines, machinery, tools
891 or other equipment brought, imported or caused to be brought into this Commonwealth for use in
892 constructing, building or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or
893 water system, drainage or dredging system, railway system, reservoir or dam, hydraulic or power plant,
894 transmission line, tower, dock, wharf, excavation, grading, or other improvement or structure, or any
895 part thereof. The rate of tax is three and one-half percent *through midnight on July 31, 2004, and four*
896 *percent beginning on and after August 1, 2004*, on all tangible personal property except motor vehicles,
897 which shall be taxed at the rate of three percent; aircraft, which shall be taxed at the rate of two
898 percent; and watercraft, which shall be taxed at the rate of two percent with a maximum tax of \$1,000.

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

905 The tax shall be computed on the basis of such proportion of the original purchase price of such
906 property as the duration of time of use in this Commonwealth bears to the total useful life thereof. For
907 purposes of this section, the word "use" means use, storage, consumption and "stand-by" time
908 occasioned by weather conditions, controversies or other causes. The tax shall be computed upon the
909 basis of the relative time each item of equipment is in this Commonwealth rather than upon the basis of
910 actual use. In the absence of satisfactory evidence as to the period of use intended in this

911 Commonwealth, it will be presumed that such property will remain in this Commonwealth for the
 912 remainder of its useful life, which shall be determined in accordance with the experiences and practices
 913 of the building and construction trades.

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

916 § 58.1-605. To what extent and under what conditions cities and counties may levy local sales taxes;
 917 collection thereof by Commonwealth and return of revenue to each city or county entitled thereto.

918 A. No county, city or town shall impose any local general sales or use tax or any local general retail
 919 sales or use tax except as authorized by this section.

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

926 C. The council of any city and the governing body of any county desiring to impose a local sales tax
 927 under this section may do so by the adoption of an ordinance stating its purpose and referring to this
 928 section, and providing that such ordinance shall be effective on the first day of a month at least ~~sixty~~ 60
 929 days after its adoption. A certified copy of such ordinance shall be forwarded to the Tax Commissioner
 930 so that it will be received within five days after its adoption.

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

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

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

958 G. Such payments to counties are subject to the qualification that in any county wherein is situated
 959 any incorporated town constituting a special school district and operated as a separate school district
 960 under a town school board of three members appointed by the town council, the county treasurer shall
 961 pay into the town treasury for general governmental purposes the proper proportionate amount received
 962 by him in the ratio that the school age population of such town bears to the school age population of
 963 the entire county. If the school age population of any town constituting a separate school district is
 964 increased by the annexation of territory since the last preceding school age population census, such
 965 increase shall, for the purposes of this section, be added to the school age population of such town as
 966 shown by the last such census and a proper reduction made in the school age population of the county
 967 or counties from which the annexed territory was acquired.

968 H. One-half of such payments to counties are subject to the further qualification, other than as set
 969 out in subsection G above, that in any county wherein is situated any incorporated town not constituting
 970 a separate special school district which has complied with its charter provisions providing for the
 971 election of its council and mayor for a period of at least four years immediately prior to the adoption of

972 the sales tax ordinance, the county treasurer shall pay into the town treasury of each such town for
 973 general governmental purposes the proper proportionate amount received by him in the ratio that the
 974 school age population of each such town bears to the school age population of the entire county, based
 975 on the latest statewide school census. The preceding requirement pertaining to the time interval between
 976 compliance with election provisions and adoption of the sales tax ordinance shall not apply to a tier-city.
 977 If the school age population of any such town not constituting a separate special school district is
 978 increased by the annexation of territory or otherwise since the last preceding school age population
 979 census, such increase shall, for the purposes of this section, be added to the school age population of
 980 such town as shown by the last such census and a proper reduction made in the school age population
 981 of the county or counties from which the annexed territory was acquired.

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

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

994 § 58.1-606. To what extent and under what conditions cities and counties may levy local use tax;
 995 collection thereof by Commonwealth and return of revenues to the cities and counties.

996 A. The council of any city and the governing body of any county which has levied or may hereafter
 997 levy a city or county sales tax under § 58.1-605 may levy a city or county use tax at the rate of one
 998 percent to provide revenue for the general fund of such city or county. Such tax shall be added to the
 999 rate of the state use tax imposed by this chapter and shall be subject to all the provisions of this chapter,
 1000 and all amendments thereof, and the rules and regulations published with respect thereto, ~~except that the~~
 1001 ~~applicable brackets of prices shall be as prescribed in § 58.1-628 for the combined state and local tax,~~
 1002 ~~and~~ except that no discount under § 58.1-622 shall be allowed on a local use tax.

1003 B. The council of any city and the governing body of any county desiring to impose a local use tax
 1004 under this section may do so in the manner following:

1005 1. If the city or county has previously imposed the local sales tax authorized by § 58.1-605, the local
 1006 use tax may be imposed by the council or governing body by the adoption of a resolution by a majority
 1007 of all the members thereof, by a recorded yea and nay vote, stating its purpose and referring to this
 1008 section, and providing that the local use tax shall become effective on the first day of a month at least
 1009 ~~sixty~~ 60 days after the adoption of the resolution. A certified copy of such resolution shall be forwarded
 1010 to the Tax Commissioner so that it will be received within five days after its adoption. The resolution
 1011 authorized by this paragraph may be adopted in the manner stated notwithstanding any other provision
 1012 of law, including any charter provision.

1013 2. If the city or county has not imposed the local sales tax authorized by § 58.1-605, the local use
 1014 tax may be imposed by ordinance together with the local sales tax in the manner set out in subsections
 1015 B and C of § 58.1-605.

1016 C. Any local use tax levied under this section shall be administered and collected by the Tax
 1017 Commissioner in the same manner and subject to the same penalties as provided for the state use tax,
 1018 ~~with the adjustments required by § 58.1-628.~~

1019 D. The local use tax authorized by this section shall not apply to transactions to which the sales tax
 1020 applies, the situs of which for state and local sales tax purposes is the city or county of location of each
 1021 place of business of every dealer paying the tax to the Commonwealth without regard to the city or
 1022 county of possible use by the purchasers. However, the local use tax authorized by this section shall
 1023 apply to tangible personal property purchased without this Commonwealth for use or consumption
 1024 within the city or county imposing the local use tax, or stored within the city or county for use or
 1025 consumption, where the property would have been subject to the sales tax if it had been purchased
 1026 within this Commonwealth. The local use tax shall also apply to leases or rentals of tangible personal
 1027 property where the place of business of the lessor is without this Commonwealth and such leases or
 1028 rentals are subject to the state tax. Moreover, the local use tax shall apply in all cases in which the state
 1029 use tax applies.

1030 E. Out-of-state dealers who hold certificates of registration to collect the use tax from their customers
 1031 for remittance to this Commonwealth shall, to the extent reasonably practicable, in filing their monthly
 1032 use tax returns with the Tax Commissioner, break down their shipments into this Commonwealth by

1033 cities and counties so as to show the city or county of destination. If, however, the out-of-state dealer is
 1034 unable accurately to assign any shipment to a particular city or county, the local use tax on the tangible
 1035 personal property involved shall be remitted to the Commonwealth by such dealer without attempting to
 1036 assign the shipment to any city or county.

1037 F. Local use tax revenue shall be distributed among the cities and counties for which it is collected,
 1038 respectively, as shown by the records of the Department, and the procedure shall be the same as that
 1039 prescribed for distribution of local sales tax revenue under § 58.1-605. The local use tax revenue that is
 1040 not accurately assignable to a particular city or county shall be distributed monthly by the appropriate
 1041 state authorities among the cities and counties in this Commonwealth imposing the local use tax upon
 1042 the basis of taxable retail sales in the respective cities and counties in which the local sales and use tax
 1043 was in effect in the taxable month involved, as shown by the records of the Department, and computed
 1044 with respect to taxable retail sales as reflected by the amounts of the local sales tax revenue distributed
 1045 among such cities and counties, respectively, in the month of distribution. Notwithstanding any other
 1046 provision of this section, the Tax Commissioner shall develop a uniform method to distribute local use
 1047 tax. Any significant changes to the method of local use tax distribution shall be phased in over a
 1048 five-year period. Distribution information shall be shared with the affected localities prior to
 1049 implementation of the changes.

1050 G. All local use tax revenue shall be used, applied or disbursed by the cities and counties as
 1051 provided in § 58.1-605 with respect to local sales tax revenue.

1052 § 58.1-609.3. Commercial and industrial exemptions.

1053 The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606
 1054 shall not apply to the following:

1055 1. Personal property purchased by a contractor which is used solely in another state or in a foreign
 1056 country, which could be purchased by such contractor for such use free from sales tax in such other
 1057 state or foreign country, and which is stored temporarily in Virginia pending shipment to such state or
 1058 country.

1059 2. (i) Industrial materials for future processing, manufacturing, refining, or conversion into articles of
 1060 tangible personal property for resale where such industrial materials either enter into the production of or
 1061 become a component part of the finished product; (ii) industrial materials that are coated upon or
 1062 impregnated into the product at any stage of its being processed, manufactured, refined, or converted for
 1063 resale; (iii) machinery or tools or repair parts therefor or replacements thereof, fuel, power, energy, or
 1064 supplies, used directly in processing, manufacturing, refining, mining or converting products for sale or
 1065 resale; (iv) materials, containers, labels, sacks, cans, boxes, drums or bags for future use for packaging
 1066 tangible personal property for shipment or sale; or (v) equipment, printing or supplies used directly to
 1067 produce a publication described in subdivision 3 of § 58.1-609.6 whether it is ultimately sold at retail or
 1068 for resale or distribution at no cost. Machinery, tools and equipment, or repair parts therefor or
 1069 replacements thereof, shall be exempt if the preponderance of their use is directly in processing,
 1070 manufacturing, refining, mining or converting products for sale or resale. The provisions of this
 1071 subsection do not apply to the drilling, extraction, refining, or processing of oil, gas, natural gas and
 1072 coalbed methane gas. *In addition, the exemption provided herein shall not be applicable to any*
 1073 *machinery, tools, and equipment, or any other tangible personal property used by a public service*
 1074 *corporation in the generation of electric power, except for raw materials that are inputs to production*
 1075 *of electricity, including fuel.*

1076 3. Tangible personal property sold or leased to (i) a public service corporation ~~subject to a state~~
 1077 ~~franchise or license tax upon gross receipts;~~ (ii) a telecommunications company as defined in
 1078 § 58.1-400.1 or (iii) a telephone company chartered in the Commonwealth which is exclusively a local
 1079 mutual association and is not designated to accumulate profits for the benefit of, or to pay dividends to,
 1080 the stockholders or members thereof, for use or consumption by such corporation, company, person or
 1081 mutual association directly in the rendition of its public service; and tangible personal property sold or
 1082 leased to a public service corporation engaged in business as a common carrier of property or
 1083 passengers by motor vehicle or railway, for use or consumption by such common carrier directly in the
 1084 rendition of its public service.

1085 4. Ships or vessels, or repairs and alterations thereof, used or to be used exclusively or principally in
 1086 interstate or foreign commerce; fuel and supplies for use or consumption aboard ships or vessels plying
 1087 the high seas, either in intercoastal trade between ports in the Commonwealth and ports in other states
 1088 of the United States or its territories or possessions, or in foreign commerce between ports in the
 1089 Commonwealth and ports in foreign countries, when delivered directly to such ships or vessels; or
 1090 tangible personal property used directly in the building, conversion or repair of the ships or vessels
 1091 covered by this subdivision. This exemption shall include dredges, their supporting equipment, attendant
 1092 vessels, and fuel and supplies for use or consumption aboard such vessels, provided the dredges are used
 1093 exclusively or principally in interstate or foreign commerce.

1094 5. Tangible personal property purchased for use or consumption directly and exclusively in basic
1095 research or research and development in the experimental or laboratory sense.

1096 6. Tangible personal property sold or leased to an airline operating in intrastate, interstate or foreign
1097 commerce as a common carrier providing scheduled air service on a continuing basis to one or more
1098 Virginia airports at least one day per week, for use or consumption by such airline directly in the
1099 rendition of its common carrier service.

1100 7. Meals furnished by restaurants or food service operators to employees as a part of wages.

1101 8. Tangible personal property including machinery and tools, repair parts or replacements thereof,
1102 and supplies and materials used directly in maintaining and preparing textile products for rental or
1103 leasing by an industrial processor engaged in the commercial leasing or renting of laundered textile
1104 products.

1105 9. (i) Certified pollution control equipment and facilities as defined in § 58.1-3660, except for any
1106 equipment that has not been certified to the Department of Taxation by a state certifying authority
1107 pursuant to such section and (ii) effective retroactive to July 1, 1994, and ending July 1, 2006, certified
1108 pollution control equipment and facilities as defined in § 58.1-3660 and which, in accordance with such
1109 section, have been certified by the Department of Mines, Minerals and Energy for coal, oil and gas
1110 production, including gas, natural gas, and coalbed methane gas.

1111 10. Parts, tires, meters and dispatch radios sold or leased to taxicab operators for use or consumption
1112 directly in the rendition of their services.

1113 11. High speed electrostatic duplicators or any other duplicators which have a printing capacity of
1114 4,000 impressions or more per hour purchased or leased by persons engaged primarily in the printing or
1115 photocopying of products for sale or resale.

1116 12. From July 1, 1994, and ending July 1, 2006, raw materials, fuel, power, energy, supplies,
1117 machinery or tools or repair parts therefor or replacements thereof, used directly in the drilling,
1118 extraction, refining, or processing of natural gas or oil and the reclamation of the well area. For the
1119 purposes of this section, the term "natural gas" shall mean "gas," "natural gas," and "coalbed methane
1120 gas" as defined in § 45.1-361.1. For the purposes of this section, "drilling," "extraction," "refining," and
1121 "processing" shall include production, inspection, testing, dewatering, dehydration, or distillation of raw
1122 natural gas into a usable condition consistent with commercial practices, and the gathering and
1123 transportation of raw natural gas to a facility wherein the gas is converted into such a usable condition.
1124 Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if the
1125 preponderance of their use is directly in the drilling, extraction, refining, or processing of natural gas or
1126 oil for sale or resale, or in well area reclamation activities required by state or federal law.

1127 13. Beginning July 1, 1997, and ending July 1, 2011, (i) the sale, lease, use, storage, consumption, or
1128 distribution of an orbital or suborbital space facility, space propulsion system, space vehicle, satellite, or
1129 space station of any kind possessing space flight capability, including the components thereof,
1130 irrespective of whether such facility, system, vehicle, satellite, or station is returned to this
1131 Commonwealth for subsequent use, storage or consumption in any manner when used to conduct
1132 spaceport activities; (ii) the sale, lease, use, storage, consumption or distribution of tangible personal
1133 property placed on or used aboard any orbital or suborbital space facility, space propulsion system,
1134 space vehicle, satellite or space station of any kind, irrespective of whether such tangible personal
1135 property is returned to this Commonwealth for subsequent use, storage or consumption in any manner
1136 when used to conduct spaceport activities; (iii) fuels of such quality not adapted for use in ordinary
1137 vehicles, being produced for, sold and exclusively used for space flight when used to conduct spaceport
1138 activities; (iv) the sale, lease, use, storage, consumption or distribution of machinery and equipment
1139 purchased, sold, leased, rented or used exclusively for spaceport activities and the sale of goods and
1140 services provided to operate and maintain launch facilities, launch equipment, payload processing
1141 facilities and payload processing equipment used to conduct spaceport activities.

1142 For purposes of this subdivision, "spaceport activities" means activities directed or sponsored at a
1143 facility owned, leased, or operated by or on behalf of the Virginia Commercial Space Flight Authority.

1144 The exemptions provided by this subdivision shall not be denied by reason of a failure,
1145 postponement or cancellation of a launch of any orbital or suborbital space facility, space propulsion
1146 system, space vehicle, satellite or space station of any kind or the destruction of any launch vehicle or
1147 any components thereof.

1148 § 58.1-611.1. Rate of tax on sales of food purchased for human consumption.

1149 A. Subject to the conditions of subsections D and E, The tax imposed by §§ 58.1-603 and 58.1-604
1150 on food purchased for human consumption shall be levied and distributed as follows:

1151 1. From January 1, 2000, through ~~March 31, 2004~~ *midnight on June 30, 2005*, the tax rate on such
1152 food shall be three percent of the gross sales price. The revenue from the tax shall be distributed as
1153 follows: (i) the revenue from the tax at the rate of one-half percent shall be distributed as provided in
1154 subsection A of § 58.1-638, (ii) the revenue from the tax at the rate of one percent shall be distributed

1155 as provided in subsections B, C and D of § 58.1-638, and (iii) the revenue from the tax at the rate of
 1156 one and one-half percent shall be used for general fund purposes.

1157 2. From ~~April 1, 2001, through March 31, 2002,~~ *July 1, 2005, through midnight on June 30, 2006,*
 1158 the tax rate on such food shall be two and one-half percent of the gross sales price. The revenue from
 1159 the tax shall be distributed as follows: (i) the revenue from the tax at the rate of one-half percent shall
 1160 be distributed as provided in subsection A of § 58.1-638, (ii) the revenue from the tax at the rate of one
 1161 percent shall be distributed as provided in subsections B, C and D of § 58.1-638, and (iii) the revenue
 1162 from the tax at the rate of one percent shall be used for general fund purposes.

1163 3. From ~~April 1, 2002, through March 31, 2003,~~ *July 1, 2006, through midnight on June 30, 2007,*
 1164 the tax rate on such food shall be two percent of the gross sales price. The revenue from the tax shall
 1165 be distributed as follows: (i) the revenue from the tax at the rate of one-half percent shall be distributed
 1166 as provided in subsection A of § 58.1-638, (ii) the revenue from the tax at the rate of one percent shall
 1167 be distributed as provided in subsections B, C and D of § 58.1-638, and (iii) the revenue from the tax at
 1168 the rate of one-half percent shall be used for general fund purposes.

1169 4. On and after ~~April 1, 2003~~ *July 1, 2007,* the tax rate on such food shall be one and one-half
 1170 percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue
 1171 from the tax at the rate of one-half percent shall be distributed as provided in subsection A of
 1172 § 58.1-638 and (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in
 1173 subsections B, C and D of § 58.1-638.

1174 B. The provisions of this section shall not affect the imposition of tax on food purchased for human
 1175 consumption pursuant to §§ 58.1-605 and 58.1-606.

1176 C. As used in this section, "food purchased for human consumption" has the same meaning as "food"
 1177 defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted
 1178 pursuant to that Act, except it shall not include seeds and plants which produce food for human
 1179 consumption. For the purpose of this section, "food purchased for human consumption" shall not include
 1180 food sold by any retail establishment where the gross receipts derived from the sale of food prepared by
 1181 such retail establishment for immediate consumption on or off the premises of the retail establishment
 1182 constitutes more than 80 percent of the total gross receipts of that retail establishment, including but not
 1183 limited to motor fuel purchases, regardless of whether such prepared food is consumed on the premises
 1184 of that retail establishment. For purposes of this section, "retail establishment" means each place of
 1185 business for which any "dealer," as defined in § 58.1-612, is required to apply for and receive a
 1186 certificate of registration pursuant to § 58.1-613.

1187 D. Notwithstanding the tax rates set forth in subsection A, the rate of tax on sales of food purchased
 1188 for human consumption for any 12-month period beginning on or after April 1, 2001, shall not be
 1189 reduced below the rate then in effect for the Commonwealth's current fiscal year if:

1190 1. Actual general fund revenues for the fiscal year preceding a fiscal year in which a rate reduction
 1191 is contemplated in subsection A do not exceed the official general fund revenue estimates for such
 1192 preceding fiscal year, as estimated in the most recently enacted and approved general appropriation act,
 1193 by at least one percent; or

1194 2. Any of the events listed in subsection C of § 58.1-3524 or subsection B of § 58.1-3536 have
 1195 occurred during the then current fiscal year.

1196 E. If the tax rate on food purchased for human consumption remains the same for the period January
 1197 1, 2000, through March 31, 2001, and the subsequent 12-month period beginning on April 1, 2001, or
 1198 with respect to any consecutive 12-month periods beginning on and after April 1, 2001, the tax rate on
 1199 such food shall remain the same unless none of the conditions described in subsection D have occurred,
 1200 in which event the tax rate on food purchased for human consumption for the immediately following
 1201 12-month period shall be equal to the next lowest tax rate listed in subsection A.

1202 § 58.1-614. Vending machine sales.

1203 A. Notwithstanding the provisions of §§ 58.1-603 and 58.1-604, whenever a dealer makes sales of
 1204 tangible personal property through vending machines, or in any other manner making collection of the
 1205 tax impractical, as determined by the Tax Commissioner, such dealer shall be required to report his
 1206 wholesale purchases for sale at retail from vending machines and shall be required to remit an amount
 1207 based on four and one-half percent *through midnight on July 31, 2004, and five percent beginning on*
 1208 *and after August 1, 2004,* of such wholesale purchases.

1209 B. Notwithstanding the provisions of §§ 58.1-605 and 58.1-606, dealers making sales of tangible
 1210 personal property through vending machines shall report and remit the one percent local sales and use
 1211 tax computed as provided in subsection A of this section.

1212 C. The provisions of subsections A and B of this section shall not be applicable to vending machine
 1213 operators all of whose machines are under contract to nonprofit organizations. Such operators shall
 1214 report only the gross receipts from machines selling items for more than ~~ten~~ 10 cents and shall be
 1215 required to remit an amount based on a percentage of their remaining gross sales established by the Tax

1216 Commissioner to take into account the inclusion of sales tax.

1217 D. Notwithstanding any other provisions in this section ~~or § 58.1-628~~, when the Tax Commissioner
1218 determines that it is impractical to collect the tax in the manner provided by those sections, such dealer
1219 shall be required to remit an amount based on a percentage of gross receipts which takes into account
1220 the inclusion of the sales tax.

1221 E. The provisions of this section shall not be applicable to any dealer who fails to maintain records
1222 satisfactory to the Tax Commissioner. A dealer making sales of tangible personal property through
1223 vending machines shall obtain a certificate of registration under § 58.1-613 in relevant form for each
1224 county or city in which he has machines.

1225 § 58.1-626. Absorption of tax prohibited.

1226 No person shall advertise or hold out to the public, directly or indirectly, that he will absorb all or
1227 any part of the sales or use tax, or that he will relieve the purchaser, consumer, or lessee of the payment
1228 of all or any part of such tax; ~~except as may be authorized under § 58.1-627 or § 58.1-628~~. Any person
1229 who violates this section shall be guilty of a Class 2 misdemeanor.

1230 § 58.1-628.2. *Adjustment to the rate of tax imposed under this chapter.*

1231 *If a dealer can show to the satisfaction of the Tax Commissioner that more than 85 percent of the*
1232 *total dollar volume of his gross taxable sales during the taxable month was from individual sales at*
1233 *prices of 10 cents or less each and that he was unable to adjust his prices in such manner as to prevent*
1234 *the economic incidence of the sales tax from falling on him, the Tax Commissioner shall determine the*
1235 *proper tax liability of the dealer based on that portion of the dealer's gross taxable sales that was from*
1236 *sales at prices of 11 cents or more.*

1237 § 58.1-638. Disposition of state sales and use tax revenue; localities' share; Game Protection Fund.

1238 A. The Comptroller shall designate a specific revenue code number for all the state sales and use tax
1239 revenue collected under the preceding sections of this chapter.

1240 1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted
1241 by the 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided
1242 in this section, to the Transportation Trust Fund as defined in § 33.1-23.03:1. Of the funds paid to the
1243 Transportation Trust Fund, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port
1244 Fund as provided in this section; an aggregate of 2.4 percent shall be set aside as the Commonwealth
1245 Airport Fund as provided in this section; and an aggregate of 14.5 percent in fiscal year 1998-1999 and
1246 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass
1247 Transit Fund as provided in this section. The Fund's share of such net revenue shall be computed as an
1248 estimate of the net revenue to be received into the state treasury each month, and such estimated
1249 payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall
1250 be made to the Fund on the last day of each month.

1251 2. There is hereby created in the Department of the Treasury a special nonreverting fund which shall
1252 be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Port Fund.

1253 a. The Commonwealth Port Fund shall be established on the books of the Comptroller and the funds
1254 remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in
1255 the Fund. Interest earned on such funds shall remain in the Fund and be credited to it. Funds may be
1256 paid to any authority, locality or commission for the purposes hereinafter specified.

1257 b. The amounts allocated pursuant to this section shall be allocated by the Commonwealth
1258 Transportation Board to the Board of Commissioners of the Virginia Port Authority to be used to
1259 support port capital needs and the preservation of existing capital needs of all ocean, river, or tributary
1260 ports within the Commonwealth.

1261 c. Commonwealth Port Fund revenue shall be allocated by the Board of Commissioners to the
1262 Virginia Port Authority in order to foster and stimulate the flow of maritime commerce through the
1263 ports of Virginia, including but not limited to the ports of Richmond, Hopewell and Alexandria.

1264 3. There is hereby created in the Department of the Treasury a special nonreverting fund which shall
1265 be part of the Transportation Trust Fund and which shall be known as the Commonwealth Airport Fund.
1266 The Commonwealth Airport Fund shall be established on the books of the Comptroller and any funds
1267 remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in
1268 the Fund. Interest earned on the funds shall be credited to the Fund. The funds so allocated shall be
1269 allocated by the Commonwealth Transportation Board to the Virginia Aviation Board. The funds shall
1270 be allocated by the Virginia Aviation Board to any Virginia airport which is owned by the
1271 Commonwealth, a governmental subdivision thereof, or a private entity to which the public has access
1272 for the purposes enumerated in § 5.1-2.16, or is owned or leased by the Metropolitan Washington
1273 Airports Authority (MWAA), as follows:

1274 Any new funds in excess of \$12.1 million which are available for allocation by the Virginia Aviation
1275 Board from the Commonwealth Transportation Fund, shall be allocated as follows: ~~sixty~~ 60 percent to
1276 MWAA, up to a maximum annual amount of ~~two~~ \$2 million dollars, and ~~forty~~ 40 percent to air carrier

1277 airports as provided in subdivision A 3 a. Except for adjustments due to changes in enplaned passengers,
 1278 no air carrier airport sponsor, excluding MWAA, shall receive less funds identified under subdivision A
 1279 3 a than it received in fiscal year 1994-1995.

1280 Of the remaining amount:

1281 a. Forty percent of the funds shall be allocated to air carrier airports, except airports owned or leased
 1282 by MWAA, based upon the percentage of enplanements for each airport to total enplanements at all air
 1283 carrier airports, except airports owned or leased by MWAA. No air carrier airport sponsor, however,
 1284 shall receive less than \$50,000 nor more than \$2 million per year from this provision.

1285 b. Forty percent of the funds shall be allocated by the Aviation Board for air carrier and reliever
 1286 airports on a discretionary basis, except airports owned or leased by MWAA.

1287 c. Twenty percent of the funds shall be allocated by the Aviation Board for general aviation airports
 1288 on a discretionary basis.

1289 4. There is hereby created in the Department of the Treasury a special nonreverting fund which shall
 1290 be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Mass
 1291 Transit Fund.

1292 a. The Commonwealth Mass Transit Fund shall be established on the books of the Comptroller and
 1293 any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but
 1294 shall remain in the Fund. Interest earned on such funds shall be credited to the Fund. Funds may be
 1295 paid to any local governing body, transportation district commission, or public service corporation for
 1296 the purposes hereinafter specified.

1297 b. The amounts allocated pursuant to this section shall be used to support the public transportation
 1298 administrative costs and the costs borne by the locality for the purchase of fuels, lubricants, tires and
 1299 maintenance parts and supplies for public transportation at a state share of ~~eighty~~ 80 percent in 2002 and
 1300 ~~ninety-five~~ 95 percent in 2003 and succeeding years. These amounts may be used to support up to
 1301 ~~ninety-five~~ 95 percent of the local or nonfederal share of capital project costs for public transportation
 1302 and ridesharing equipment, facilities, and associated costs. Capital costs may include debt service
 1303 payments on local or agency transit bonds. The term "borne by the locality" means the local share
 1304 eligible for state assistance consisting of costs in excess of the sum of fares and other operating
 1305 revenues plus federal assistance received by the locality.

1306 c. Commonwealth Mass Transit Fund revenue shall be allocated by the Commonwealth
 1307 Transportation Board as follows:

1308 (1) Funds for special programs, which shall include ridesharing, experimental transit, and technical
 1309 assistance, shall not exceed 1.5 percent of the Fund.

1310 (2) The Board may allocate these funds to any locality or planning district commission to finance up
 1311 to ~~eighty~~ 80 percent of the local share of all costs associated with the development, implementation, and
 1312 continuation of ridesharing programs.

1313 (3) Funds allocated for experimental transit projects may be paid to any local governing body,
 1314 transportation district commission, or public corporation or may be used directly by the Department of
 1315 Rail and Public Transportation for the following purposes:

1316 (a) To finance up to ~~ninety-five~~ 95 percent of the capital costs related to the development,
 1317 implementation and promotion of experimental public transportation and ridesharing projects approved
 1318 by the Board.

1319 (b) To finance up to ~~ninety-five~~ 95 percent of the operating costs of experimental mass transportation
 1320 and ridesharing projects approved by the Board for a period of time not to exceed ~~twelve~~ 12 months.

1321 (c) To finance up to ~~ninety-five~~ 95 percent of the cost of the development and implementation of any
 1322 other project designated by the Board where the purpose of such project is to enhance the provision and
 1323 use of public transportation services.

1324 d. Funds allocated for public transportation promotion and operation studies may be paid to any local
 1325 governing body, planning district commission, transportation district commission, or public transit
 1326 corporation, or may be used directly by the Department of Rail and Public Transportation for the
 1327 following purposes and aid of public transportation services:

1328 (1) At the approval of the Board to finance a program administered by the Department of Rail and
 1329 Public Transportation designed to promote the use of public transportation and ridesharing throughout
 1330 Virginia.

1331 (2) To finance up to ~~fifty~~ 50 percent of the local share of public transportation operations planning
 1332 and technical study projects approved by the Board.

1333 e. At least 73.5 percent of the Fund shall be distributed to each transit property in the same
 1334 proportion as its operating expenses bear to the total statewide operating expenses and shall be spent for
 1335 the purposes specified in subdivision 4 b.

1336 f. The remaining ~~twenty-five~~ 25 percent shall be distributed for capital purposes on the basis of
 1337 ~~ninety-five~~ 95 percent of the nonfederal share for federal projects and ~~ninety-five~~ 95 percent of the total

1338 costs for nonfederal projects. In the event that total capital funds available under this subdivision are
 1339 insufficient to fund the complete list of eligible projects, the funds shall be distributed to each transit
 1340 property in the same proportion that such capital expenditure bears to the statewide total of capital
 1341 projects.

1342 g. There is hereby created in the Department of the Treasury a special nonreverting fund known as
 1343 the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the
 1344 Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be
 1345 established on the books of the Comptroller and consist of such moneys as are appropriated to it by the
 1346 General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given,
 1347 bequeathed, granted, or otherwise made available to the Commonwealth Transit Capital Fund. Any funds
 1348 remaining in the Commonwealth Transit Capital Fund at the end of the biennium shall not revert to the
 1349 general fund, but shall remain in the Commonwealth Transit Capital Fund. Interest earned on funds
 1350 within the Commonwealth Transit Capital Fund shall remain in and be credited to the Commonwealth
 1351 Transit Capital Fund. Proceeds of the Commonwealth Transit Capital Fund may be paid to any political
 1352 subdivision, another public entity created by an act of the General Assembly, or a private entity as
 1353 defined in § 56-557 and for purposes as enumerated in subdivision 4c of § 33.1-269 or expended by the
 1354 Department of Rail and Public Transportation for the purposes specified in this subdivision. Revenues of
 1355 the Commonwealth Transit Capital Fund shall be used to support capital expenditures involving the
 1356 establishment, improvement, or expansion of public transportation services through specific projects
 1357 approved by the Commonwealth Transportation Board. Projects financed by the Commonwealth Transit
 1358 Capital Fund shall receive local, regional or private funding for at least ~~twenty~~ 20 percent of the
 1359 nonfederal share of the total project cost.

1360 5. Funds for Metro shall be paid by the Northern Virginia Transportation Commission (NVTC) to the
 1361 Washington Metropolitan Area Transit Authority (WMATA) and be a credit to the Counties of
 1362 Arlington and Fairfax and the Cities of Alexandria, Falls Church and Fairfax in the following manner:

1363 a. Local obligations for debt service for WMATA rail transit bonds apportioned to each locality
 1364 using WMATA's capital formula shall be paid first by NVTC. NVTC shall use ~~ninety-five~~ 95 percent
 1365 state aid for these payments.

1366 b. The remaining funds shall be apportioned to reflect WMATA's allocation formulas by using the
 1367 related WMATA-allocated subsidies and relative shares of local transit subsidies. Capital costs shall
 1368 include ~~twenty~~ 20 percent of annual local bus capital expenses. Hold harmless protections and
 1369 obligations for NVTC's jurisdictions agreed to by NVTC on November 5, 1998, shall remain in effect.

1370 Appropriations from the Commonwealth Mass Transit Fund are intended to provide a stable and
 1371 reliable source of revenue as defined by Public Law 96-184.

1372 B. The sales and use tax revenue generated by a one percent sales and use tax shall be distributed
 1373 among the counties and cities of this Commonwealth in the manner provided in subsections C and D.

1374 C. The localities' share of the net revenue distributable under this section among the counties and
 1375 cities shall be apportioned by the Comptroller and distributed among them by warrants of the
 1376 Comptroller drawn on the Treasurer of Virginia as soon as practicable after the close of each month
 1377 during which the net revenue was received into the state treasury. The distribution of the localities' share
 1378 of such net revenue shall be computed with respect to the net revenue received into the state treasury
 1379 during each month, and such distribution shall be made as soon as practicable after the close of each
 1380 such month.

1381 D. The net revenue so distributable among the counties and cities shall be apportioned and
 1382 distributed upon the basis as certified to the Comptroller by the Department of Education, of the number
 1383 of children in each county and city according to the most recent statewide census of school population
 1384 taken by the Department of Education pursuant to § 22.1-284, as adjusted in the manner hereinafter
 1385 provided. No special school population census, other than a statewide census, shall be used as the basis
 1386 of apportionment and distribution except that in any calendar year in which a statewide census is not
 1387 reported, the Department of Education shall adjust such school population figures by the same percent of
 1388 annual change in total population estimated for each locality by The Center for Public Service. The
 1389 revenue so apportionable and distributable is hereby appropriated to the several counties and cities for
 1390 maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the
 1391 operation of the public schools, which shall be considered as funds raised from local resources. In any
 1392 county, however, wherein is situated any incorporated town constituting a school division, the county
 1393 treasurer shall pay into the town treasury for maintenance, operation, capital outlays, debt and interest
 1394 payments, or other expenses incurred in the operation of the public schools, the proper proportionate
 1395 amount received by him in the ratio that the school population of such town bears to the school
 1396 population of the entire county. If the school population of any city or of any town constituting a school
 1397 division is increased by the annexation of territory since the last preceding school population census,
 1398 such increase shall, for the purposes of this section, be added to the school population of such city or

1399 town as shown by the last such census and a proper reduction made in the school population of the
1400 county or counties from which the annexed territory was acquired.

1401 E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a
1402 two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of
1403 hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment,
1404 wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the
1405 most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of
1406 Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated
1407 Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used,
1408 in part, to defray the cost of law enforcement. Not later than ~~thirty~~ 30 days after the close of each
1409 quarter, the Comptroller shall transfer to the Game Protection Fund the appropriate amount of
1410 collections to be dedicated to such Fund. At any time that the balance in the Capital Improvement Fund,
1411 established under § 29.1-101.1, is equal to or in excess of \$35 million, any portion of sales and use tax
1412 revenues that would have been transferred to the Game Protection Fund, established under § 29.1-101, in
1413 excess of the net operating expenses of the Board, after deduction of other amounts which accrue to the
1414 Board and are set aside for the Game Protection Fund, shall remain in the general fund until such time
1415 as the balance in the Capital Improvement Fund is less than \$35 million.

1416 *F. 1. Of the net revenue generated from the one-half percent increase in the rate of the state sales
1417 and use tax effective August 1, 2004, pursuant to enactments of the 2004 Special Session I of the
1418 General Assembly, the Comptroller shall transfer from the general fund of the state treasury to the
1419 Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund established under
1420 § 58.1-638.1 an amount equivalent to one-half of the net revenue generated from such one-half percent
1421 increase as provided in this subdivision. The transfers to the Public Education Standards of
1422 Quality/Local Real Estate Property Tax Relief Fund under this subdivision shall be for one-half of the
1423 net revenue generated (and collected in the succeeding month) from such one-half percent increase for
1424 the month of August 2004 and for each month thereafter.*

1425 *2. For the purposes of the Comptroller making the required transfers under subdivision 1, the Tax
1426 Commissioner shall make a written certification to the Comptroller no later than the twenty-fifth of each
1427 month certifying the sales and use tax revenues generated in the preceding month. Within three calendar
1428 days of receiving such certification, the Comptroller shall make the required transfers to the Public
1429 Education Standards of Quality/Local Real Estate Property Tax Relief Fund.*

1430 ~~F~~ G. If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall
1431 be corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.

1432 ~~G~~ H. The term "net revenue," as used in this section, means the gross revenue received into the
1433 general fund or the Transportation Trust Fund of the state treasury under the preceding sections of this
1434 chapter, less refunds to taxpayers.

1435 *§ 58.1-638.1. Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund
1436 established.*

1437 *There is hereby created in the state treasury a special permanent, nonreverting, interest-bearing fund
1438 to be known as the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund,
1439 hereinafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller.
1440 The Fund shall consist of (i) any sales and use tax revenues transferred pursuant to subsection F of
1441 § 58.1-638; (ii) any other moneys appropriated to it by the General Assembly; and (iii) such other sums
1442 as may be made available to it from any other source, public or private, all of which shall be credited
1443 to the Fund. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal
1444 year shall remain in the Fund and shall not revert to the general fund.*

1445 *All amounts credited to the Fund shall be paid to localities in accordance with the general
1446 appropriation act to meet the Commonwealth's responsibility for the Standards of Quality prescribed
1447 pursuant to Article VIII, Section 2 of the Constitution of Virginia. Any amount paid to a county, city, or
1448 town from the Fund shall be taken into account by the governing body of the county, city, or town in
1449 setting real estate tax rates.*

1450 *§ 58.1-639. Transitional provisions.*

1451 *A. To the extent of ~~any~~ the one-half percent increase in the state sales and use tax rate effective
1452 August 1, 2004, enacted by the ~~1986 Special~~ 2004 Special Session I of the Virginia General Assembly,
1453 the Tax Commissioner, upon application of the purchaser in accordance with regulations promulgated by
1454 the Commissioner, shall have the authority to refund state sales or use taxes paid on purchases of
1455 tangible personal property made pursuant to bona fide real estate construction contracts, contracts for the
1456 sale of tangible personal property, and leases, provided that the real estate construction contract, contract
1457 for the sale of tangible personal property or lease is entered into prior to the date of enactment of ~~the~~
1458 *such* increase ~~of~~ in the state sales and use tax rate; and further provided that the date of delivery of the
1459 tangible personal property is on or before ~~March 30, 1987~~ October 31, 2004. The term "bona fide*

1460 contract," when used in this section in relation to real estate construction contracts, shall include but not
 1461 be limited to those contracts which are entered into prior to the enactment of ~~the~~ *such* increase in the
 1462 state sales and use tax rate, provided that such contracts include plans and specifications.

1463 B. Notwithstanding the foregoing ~~March 30, 1987~~ *October 31, 2004*, delivery date requirement, with
 1464 respect to bona fide real estate construction contracts which contain a specific and stated date of
 1465 completion, the date of delivery of such tangible personal property shall be on or before the completion
 1466 date of the applicable project.

1467 C. Applications for refunds pursuant to this section shall be made in accordance with the provisions
 1468 of § 58.1-1823. Interest computed in accordance with § 58.1-1833 shall be added to the tax refunded
 1469 pursuant to this section.

1470 § 58.1-801. Deeds generally; charter amendments.

1471 A. On every deed admitted to record, except a deed exempt from taxation by law, there is hereby
 1472 levied a state recordation tax. The rate of the tax shall be ~~fifteen~~ 25 cents on every \$100 or fraction
 1473 thereof of the consideration of the deed or the actual value of the property conveyed, whichever is
 1474 greater.

1475 Upon deeds conveying property lying partly within the Commonwealth and partly without the
 1476 Commonwealth, the tax herein imposed shall apply only to the value of so much of the property
 1477 conveyed as is situated within the Commonwealth.

1478 B. When the charter of a corporation is amended, and the only effect of such amendment is to
 1479 change the corporate name of such corporation, the tax upon the recordation of a deed conveying to, or
 1480 vesting in, such corporation under its changed name, the title to any or all of the real or personal
 1481 property of such corporation held in its name as it existed immediately prior to such amendment, shall
 1482 be ~~fifty~~ 50 cents.

1483 § 58.1-803. Deeds of trust or mortgages; maximum tax.

1484 A. A recordation tax on deeds of trust or mortgages is hereby imposed at a rate of ~~15¢~~ 25 cents on
 1485 every \$100 or portion thereof of the amount of bonds or other obligations secured thereby. In the event
 1486 of an open or revolving deed of trust, the amount of the obligation for purposes of this section shall be
 1487 the maximum amount which may be outstanding at any one time. In any case in which the amount
 1488 which may be secured under a deed of trust or mortgage is not ascertainable, the tax shall be based
 1489 upon the fair market value of the property conveyed, determined as of the date of the deed of trust or
 1490 mortgage. The fair market value of the property shall include the value of any realty required by the
 1491 terms of the deed of trust or mortgage to be constructed thereon.

1492 B. On deeds of trust or mortgages upon the works and property of a railroad lying partly within the
 1493 Commonwealth and partly without the Commonwealth, the tax shall be only upon such proportion of
 1494 the amount of bonds, or other obligations secured thereby, as the number of miles of the line of such
 1495 company in the Commonwealth bears to the whole number of miles of the line of such company
 1496 conveyed by such deed of trust or mortgage.

1497 Upon deeds of trust or mortgages conveying other property lying partly within the Commonwealth
 1498 and partly without the Commonwealth the tax herein imposed shall be only upon such proportion of the
 1499 debt secured as the value of the property located within the Commonwealth, or which may be brought
 1500 into the Commonwealth, bears to the entire amount of property conveyed by such deed of trust or
 1501 mortgage.

1502 C. On deeds of trust or mortgages, which provide for an initial issue of bonds, to be followed
 1503 thereafter by additional bonds, unlimited in amount, if such deed of trust or mortgage provides that as
 1504 and when such additional bonds are issued a supplemental indenture shall be recorded in the office in
 1505 which the original deed of trust or mortgage is first recorded, which supplement shall contain a
 1506 statement as to the amount of the additional bonds to be issued, then the tax shall be paid upon the
 1507 initial amount of bonds when the original deed of trust is recorded and thereafter on each additional
 1508 amount of bonds when the supplemental indenture relating to such additional bonds is recorded.

1509 On deeds of trust or mortgages which are supplemental to or wrap around existing deeds of trust on
 1510 which the tax imposed hereunder has already been paid, the tax shall be paid only on that portion of the
 1511 face amount of the bond or obligation secured thereby which is in addition to the amount of the existing
 1512 debt secured by a deed of trust or mortgage on which tax has been paid. The instrument shall certify the
 1513 amount of the existing debt.

1514 D. On deeds of trust or mortgages, the purpose of which is to refinance or modify the terms of an
 1515 existing debt with the same lender, which debt is secured by a deed of trust or mortgage on which the
 1516 tax imposed hereunder has been paid, the tax shall be paid only on that portion of the amount of the
 1517 bond or other obligation secured thereby which is in addition to the amount of the original debt secured
 1518 by a deed of trust or mortgage on which the tax has been paid. The instrument shall certify the amount
 1519 of original debt.

1520 E. The maximum tax on the recordation of any deed of trust or mortgage or on any indenture

1521 supplemental thereto shall be determined in accordance with the following schedule:

1522 On the first \$10 million ~~dollars~~ of value as determined pursuant to this section, ~~15¢~~ 25 cents upon
 1523 every \$100 or portion thereof;

1524 On the next \$10 million ~~dollars~~ of value as determined pursuant to this section, ~~12¢~~ 22 cents upon
 1525 every \$100 or portion thereof;

1526 On the next \$10 million ~~dollars~~ of value as determined pursuant to this section, ~~9¢~~ 19 cents upon
 1527 every \$100 or portion thereof;

1528 On the next \$10 million ~~dollars~~ of value as determined pursuant to this section, ~~6¢~~ 16 cents upon
 1529 every \$100 or portion thereof; and

1530 On all over \$40 million ~~dollars~~ of value as determined pursuant to this section, ~~3¢~~ 13 cents upon
 1531 every \$100 or portion thereof, incorporated into this section.

1532 § 58.1-807. Contracts generally; leases.

1533 A. Except as hereinafter provided, on every contract or memorandum thereof relating to real or
 1534 personal property admitted to record, a recordation tax is hereby levied at the rate of ~~fifteen~~ 25 cents on
 1535 every \$100 or fraction thereof of the consideration or value contracted for.

1536 B. The recordation of a deed of lease for a term of years, or assignment of the lessee's interest
 1537 therein, or memorandum thereof, shall be taxed according to the provisions of this section, unless
 1538 provided otherwise in § 58.1-809 or unless the annual rental, multiplied by the term for which the lease
 1539 runs, or remainder thereof, equals or exceeds the actual value of the property leased. In such cases the
 1540 tax for recording the deed of lease shall be based upon the actual value of the property at the date of
 1541 lease, including the value of any realty required by the terms of the lease to be constructed thereon by
 1542 the lessor.

1543 C. The recordation of an assignment of the lessor's interest in a lease, or memorandum thereof, shall
 1544 be taxed according to the provisions of this section, unless the assignment of the lessor's interest in the
 1545 lease is to provide additional security for an obligation of the lessor on which the tax has been
 1546 previously paid, or the assignment of the lessor's interest is made to the person who owns the property
 1547 which is subject to the lease. In such cases there shall be no tax for recording the lessor's assignment of
 1548 the lease.

1549 D. Notwithstanding the other provisions of this section, the tax on the recordation of leases of oil
 1550 and gas rights shall not exceed ~~twenty-five dollars~~ \$25. The tax on the recordation of leases of coal and
 1551 other mineral rights shall not exceed ~~fifty dollars~~ \$50.

1552 E. Notwithstanding the other provisions of this section, the tax on the recordation of leases of
 1553 outdoor advertising signs owned by a person engaged in the business of outdoor advertising licensed by
 1554 the Virginia Department of Transportation pursuant to § 33.1-361 shall not exceed ~~twenty-five dollars~~
 1555 \$25.

1556 § 58.1-808. Sales contracts for the sale of rolling stock or equipment.

1557 On every contract or agreement admitted to record relating to the sale of rolling stock or equipment,
 1558 whether the title is reserved in the vendor or not, with a railroad corporation or other corporation or
 1559 with a person, firm or company, the tax shall be ~~15¢~~ 25 cents on every \$100 or fraction thereof of the
 1560 amount contracted for in such contract or agreement. When such contract or agreement is with a railroad
 1561 corporation lying partly within the Commonwealth and partly without the Commonwealth, the tax shall
 1562 be upon such proportion of the amount contracted for as the number of miles of the line of such
 1563 railroad corporation in the Commonwealth bears to the whole number of miles of line of such railroad
 1564 corporation.

1565 § 58.1-1001. Tax levied; rate.

1566 In addition to all other taxes now imposed by law, every person within this Commonwealth who
 1567 sells, stores or receives cigarettes made of tobacco or any substitute thereof, for the purpose of
 1568 distribution to any person within this Commonwealth, shall pay to this Commonwealth an excise tax of
 1569 one and one-quarter mills on each such cigarette sold, stored or received before August 1, 2004; an
 1570 excise tax of one cent on each such cigarette sold, stored or received on and after August 1, 2004,
 1571 through midnight on June 30, 2005; and an excise tax of 1.5 cents on each such cigarette sold, stored
 1572 or received on and after July 1, 2005.

1573 *The revenues generated by the tax imposed under this section on and after August 1, 2004, shall be*
 1574 *collected by the Department and deposited into the Virginia Health Care Fund established under*
 1575 *§ 32.1-366.*

1576 § 58.1-1009. Preparation, design and sale of stamps; unlawful sale or purchase of stamps a felony;
 1577 penalty.

1578 A. The Department is hereby authorized and directed to have prepared and to sell stamps suitable for
 1579 denoting the tax on all cigarettes. The Department shall design, adopt and promulgate the form and kind
 1580 of stamps to be used. Stamps so adopted and promulgated shall be known as and termed "Virginia
 1581 revenue stamps," and in any information or indictment, it shall be sufficient to describe the stamps as

1582 "Virginia revenue stamps."

1583 Any person other than the Department who sells such revenue stamps, not affixed to cigarettes sold
 1584 and delivered by them, whether the said stamps be genuine or counterfeit, shall be guilty of a Class 6
 1585 felony. Any person who purchases revenue stamps from anyone other than the Department, unless such
 1586 stamps are already affixed to cigarettes being purchased by and delivered to him, or who uses or affixes,
 1587 or causes to be used or affixed, any revenue stamps not purchased from the Department by the owner of
 1588 the cigarettes being handled or stamped, whether such stamps are genuine or counterfeit, shall be guilty
 1589 of a Class 6 felony. When wholesalers have qualified as such with the Department, as provided in
 1590 § 58.1-1011, and purchase stamps as prescribed herein for use on taxable cigarettes sold and delivered
 1591 by them, the Department shall allow on such sales of revenue stamps a discount of two and one-half
 1592 cents per carton. ~~In addition to any other penalties provided by law, the Department may revoke the~~
 1593 ~~permit issued, in accordance with § 58.1-1011, to any person who violates this section.~~

1594 As used herein "carton" shall mean ~~ten~~ 10 packs of cigarettes, each containing ~~twenty~~ 20 cigarettes.
 1595 All stamps prescribed by the Department shall be designed and furnished in such a fashion as to permit
 1596 identification of the wholesale dealer or retail dealer that affixed the stamp to the particular package of
 1597 cigarettes, by means of a serial number or other mark on the stamp. The Department shall maintain for
 1598 not less than three years information identifying which wholesale dealer or retail dealer affixed the
 1599 revenue stamp to each package of cigarettes.

1600 *B. 1. The Department shall provide Virginia revenue stamps to certain wholesale dealers holding a*
 1601 *current permit issued pursuant to § 58.1-1011 prior to collecting the tax imposed under this chapter*
 1602 *from such wholesale dealer. Such wholesale dealers shall be allowed to obtain the stamps from the*
 1603 *Department without concurrent payment of the tax only if the conditions of this subsection are satisfied.*

1604 *In order to obtain Virginia revenue stamps without concurrent payment of the tax imposed under this*
 1605 *chapter, a wholesale dealer shall (i) file a bond with a corporate surety licensed to do business in*
 1606 *Virginia, or (ii) file an irrevocable letter of credit satisfactory to the Tax Commissioner as to the bank*
 1607 *or savings institution, the form and substance, and payable to the Commonwealth in the face amount of*
 1608 *approximately two times the anticipated average monthly amount in purchases of Virginia revenue*
 1609 *stamps by the wholesale dealer as determined by the Commissioner. The letter of credit shall be from a*
 1610 *bank incorporated or authorized to conduct banking business under the laws of the Commonwealth or*
 1611 *authorized to do business in the Commonwealth under the banking laws of the United States, or a*
 1612 *federally insured savings institution located in the Commonwealth. Such bond or irrevocable letter of*
 1613 *credit shall be conditioned upon payment of the tax imposed by this chapter relating to Virginia revenue*
 1614 *stamps obtained by the wholesale dealer from the Department (without concurrent payment of the tax)*
 1615 *for which such tax, net of any applicable discount described in subsection A, shall be paid within the 30*
 1616 *days immediately following the date that the related revenue stamp or stamps were provided by the*
 1617 *Department to such wholesale dealer. Any such bond shall be so written that, on timely payment of the*
 1618 *premium thereon, it shall continue in force from year to year unless sooner terminated.*

1619 *2. Any surety on a bond filed by any wholesale dealer shall be released and discharged from any*
 1620 *and all liability to the Commonwealth accruing on such bond after the expiration of 60 days from the*
 1621 *date upon which such surety shall have lodged with the Commissioner written request to be released*
 1622 *and discharged. But such request shall not operate to relieve, release or discharge such surety from any*
 1623 *liability already accrued or which shall accrue before the expiration of such 60-day period. The*
 1624 *Commissioner shall, promptly on receipt of such notice, notify the wholesale dealer who furnished such*
 1625 *bond. Unless such dealer on or before the expiration of such 60 days' notice files with the*
 1626 *Commissioner a new bond or letter of credit that meets all the conditions described in subdivision 1, the*
 1627 *Commissioner shall forthwith require the wholesale dealer to pay the tax imposed under this chapter*
 1628 *concurrent with obtaining revenue stamps from the Department.*

1629 *In the event that liability upon the bond or letter of credit filed by the wholesale dealer with the*
 1630 *Commissioner shall be discharged or reduced, whether by judgment rendered, payment made or*
 1631 *otherwise, or if in the opinion of the Commissioner any surety on the bond becomes unsatisfactory or*
 1632 *unacceptable, then the Commissioner may require the filing of a new bond or letter of credit. Unless*
 1633 *such new bond or letter of credit meets all the conditions described in subdivision 1, the Commissioner*
 1634 *shall forthwith require the wholesale dealer to pay the tax imposed under this chapter concurrent with*
 1635 *obtaining revenue stamps from the Department.*

1636 *3. Notwithstanding any other provision in this subsection, the Tax Commissioner, for good cause,*
 1637 *shall require a wholesale dealer to pay the tax imposed under this chapter concurrent with obtaining*
 1638 *revenue stamps from the Department, regardless of whether or not such dealer has filed or agreed to*
 1639 *file the bond or letter of credit described in this subsection.*

1640 *C. In addition to any other penalties provided by law, the Department may revoke the permit issued,*
 1641 *in accordance with § 58.1-1011, to any person who violates any provision of this section.*

1642 § 58.1-1018. Tax imposed on storage, use or consumption of cigarettes; exemption of products on

1643 which sales tax has been paid.

1644 An excise tax is hereby imposed on the storage, use or other consumption in this Commonwealth of
 1645 cigarettes purchased at retail in an amount equal to that set out in § 58.1-1001. Every person storing,
 1646 using or otherwise consuming in this Commonwealth cigarettes purchased at retail shall be liable for the
 1647 tax imposed by this article, and the liability shall not be extinguished until the tax has been paid to this
 1648 Commonwealth; however, if such cigarettes have attached thereto the requisite stamps or if the excise
 1649 tax imposed by Article 1 (§ 58.1-1000 et seq.) has been paid by the seller of such cigarettes, then the
 1650 tax imposed by this article shall not be due.

1651 *The revenues generated by the tax imposed under this section on and after August 1, 2004, shall be*
 1652 *collected by the Department and deposited into the Virginia Health Care Fund established under*
 1653 *§ 32.1-366.*

1654 *Article 2.1.*
 1655 *Tobacco Products Tax.*

1656 *§ 58.1-1021.01. Definitions.*

1657 *As used in this article, unless the context clearly shows otherwise, the term or phrase:*

1658 *"Package" means any package, bag, box, can, or other container in which tobacco products are*
 1659 *packaged and sold.*

1660 *"Purchase price" means the same as sales price but applies to the total price paid for tobacco*
 1661 *products.*

1662 *"Retail dealer" means every person other than a wholesale dealer, as defined in this section, who*
 1663 *sells or offers for sale any tobacco product.*

1664 *"Sales price" means the total amount for which tobacco products are sold, valued in money, whether*
 1665 *paid in money or otherwise, and includes any amount for which credit is given to the purchaser by the*
 1666 *dealer, without any deduction therefrom on account of the cost of the property sold, the cost of*
 1667 *materials used, labor or service costs, losses or any other expenses whatsoever. "Sales price" shall not*
 1668 *include any cash discount allowed and taken or finance charges, carrying charges, service charges or*
 1669 *interest from credit extended on sales of tobacco products.*

1670 *"Tobacco product" or "tobacco products" means (i) "cigar" as defined in § 5702 (a) of the Internal*
 1671 *Revenue Code, and as such section may be amended; (ii) "smokeless tobacco" as defined in § 5702 (m)*
 1672 *of the Internal Revenue Code, and as such section may be amended; (iii) "pipe tobacco" as defined in*
 1673 *§ 5702 (n) of the Internal Revenue Code, and as such section may be amended; or (iv) "roll-your-own*
 1674 *tobacco" as defined in § 5702 (o) of the Internal Revenue Code, and as such section may be amended.*

1675 *"Wholesale dealer" means persons who sell any tobacco product at wholesale to retail dealers, or*
 1676 *who sell any tobacco product at wholesale to institutional, commercial or industrial users.*

1677 *§ 58.1-1021.02. Tax on tobacco products.*

1678 *A. In addition to all other taxes now imposed by law, there is hereby imposed a tax on every*
 1679 *wholesale dealer within the Commonwealth selling any tobacco product to a retail dealer located in the*
 1680 *Commonwealth or selling any tobacco product to institutional, commercial or industrial users located in*
 1681 *the Commonwealth. For purposes of such tax, chain store distribution centers or houses that distribute*
 1682 *any tobacco product to their stores for sale at retail shall be deemed to be a wholesale dealer selling to*
 1683 *a retail dealer.*

1684 *The tax shall be imposed at a rate of 10 percent of the sales price charged by the wholesale dealer*
 1685 *for each such package of tobacco product sold to a retail dealer or institutional, commercial or*
 1686 *industrial user. In any case where a chain store distribution center or house distributes any tobacco*
 1687 *product to its stores, the tax shall be imposed on the purchase price paid by the chain store distribution*
 1688 *center or house for each such package of tobacco product so distributed.*

1689 *B. In addition to all other taxes now imposed by law, there is hereby imposed a tax on every retail*
 1690 *dealer within the Commonwealth purchasing any tobacco product from a wholesale dealer located*
 1691 *outside the Commonwealth.*

1692 *The tax shall be imposed at a rate of 10 percent of the purchase price paid by the retail dealer for*
 1693 *each such package of tobacco product purchased from a wholesale dealer located outside the*
 1694 *Commonwealth.*

1695 *§ 58.1-1021.03. Monthly return and payments of tax.*

1696 *A. Every wholesale dealer subject to the tax imposed under this article shall, beginning with the*
 1697 *month of April 2005, file a monthly return no later than the tenth of each month on a form prescribed*
 1698 *by the Department, covering the sale of tobacco products by such dealer, for which a tax is imposed*
 1699 *pursuant to subsection A of 58.1-1021.02, during the preceding month. The return shall contain or be*
 1700 *accompanied by such further information as the Department shall require. The wholesale dealer, at the*
 1701 *time of filing the return, shall pay to the Department the tax imposed under subsection A of*
 1702 *§ 58.1-1021.02 on the sales price for each such package of tobacco product sold in the preceding*
 1703 *month.*

1704 *B. Every retail dealer subject to the tax imposed under this article shall, beginning with the month of*
 1705 *April 2005, file a monthly return no later than the tenth of each month on a form prescribed by the*
 1706 *Department, covering the purchase of tobacco products by such dealer, for which a tax is imposed*
 1707 *pursuant to subsection B of 58.1-1021.02, during the preceding month. The return shall contain or be*
 1708 *accompanied by such further information as the Department shall require. The retail dealer, at the time*
 1709 *of filing the return, shall pay to the Department the tax imposed under subsection B of § 58.1-1021.02*
 1710 *on the purchase price for each such package of tobacco product purchased in the preceding month.*

1711 *§ 58.1-1021.04. Failure to file return; fraudulent return; penalties; interest; overpayment of tax.*

1712 *A. When any wholesale dealer or retail dealer fails to make any return or pay the full amount of the*
 1713 *tax required by this article, there shall be imposed a specific penalty to be added to the tax in the*
 1714 *amount of five percent if the failure is for not more than one month, with an additional two percent for*
 1715 *each additional month, or fraction thereof, during which the failure continues, not to exceed 20 percent*
 1716 *in the aggregate. In no case, however, shall the penalty be less than \$10 and such minimum penalty*
 1717 *shall apply whether or not any tax is due for the period for which such return was required. If such*
 1718 *failure is due to providential or other good cause shown to the satisfaction of the Tax Commissioner,*
 1719 *such return with or without remittance may be accepted exclusive of penalties. In the case of a false or*
 1720 *fraudulent return where willful intent exists to defraud the Commonwealth of any tax due under this*
 1721 *article, or in the case of a willful failure to file a return with the intent to defraud the Commonwealth*
 1722 *of any such tax, a specific penalty of 50 percent of the amount of the proper tax shall be assessed. All*
 1723 *penalties and interest imposed by this article shall be payable by the wholesale dealer or retail dealer*
 1724 *and collectible by the Department in the same manner as if they were a part of the tax imposed.*

1725 *B. It shall be prima facie evidence of intent to defraud the Commonwealth of any tax due under this*
 1726 *article when any wholesale dealer or retail dealer reports his sales or purchases, as the case may be, at*
 1727 *50 percent or less of the actual amount.*

1728 *C. Interest at a rate determined in accordance with § 58.1-15 shall accrue on the tax until the same*
 1729 *is paid.*

1730 *No deficiency, interest or penalty shall be assessed for any month after the expiration of three years*
 1731 *from the date set for the filing of the return for such month, except in cases of fraud, or where no*
 1732 *return has been filed for such month.*

1733 *D. If the Tax Commissioner determines that the amount paid the Commonwealth under this article in*
 1734 *regard to any monthly return was greater than the amount of tax due the Commonwealth, the excess*
 1735 *may be taken as a credit by the wholesale dealer or retail dealer against a subsequent month's tax*
 1736 *imposed under this article. However, if such wholesale dealer or retail dealer requests a refund, such*
 1737 *excess shall be refunded to the dealer within 45 days of the request. The refund shall include interest at*
 1738 *the rate provided in § 58.1-15. Interest on such refunds shall accrue from the due date of the return to*
 1739 *which such excess is attributable to or the date such excess was paid to the Department, whichever is*
 1740 *later, and shall end on a date determined by the Department preceding the date of the refund check by*
 1741 *not more than seven days.*

1742 *§ 58.1-1021.05. Use of revenues.*

1743 *The revenues generated by the taxes imposed under this article shall be collected by the Department*
 1744 *and deposited into the Virginia Health Care Fund established under § 32.1-366.*

1745 *§ 58.1-1206. Deductions from gross capital.*

1746 *A. There shall be deducted from the gross capital otherwise ascertainable under § 58.1-1205:*

1747 *1. The assessed value of real estate if otherwise taxed in this Commonwealth which is owned by*
 1748 *such bank, or is used or occupied by such bank, if held in the name of a majority-owned subsidiary of*
 1749 *the bank or of a bank holding company which owns a majority of the capital stock of such bank or of*
 1750 *any wholly-owned subsidiary of the bank holding company which owns the majority of the capital stock*
 1751 *of such bank and the assessed value, up to the amount of the unencumbered equity, of real estate in the*
 1752 *nature of improvements which are owned by the bank, or used or occupied by the bank and held by a*
 1753 *majority-owned subsidiary or a bank holding company or a wholly-owned subsidiary of a bank holding*
 1754 *company, even if assessed in the name of some other person because of the ownership of the underlying*
 1755 *land by such person. Real estate used or occupied by a subsidiary or originally conveyed as collateral*
 1756 *for loans made by a subsidiary of the bank and reacquired upon foreclosure of mortgage loans will be*
 1757 *deemed to be used or occupied by the bank. The deduction for assessed value of real estate shall be the*
 1758 *most recent assessment made prior to January 1 of the current bank franchise tax year for real estate*
 1759 *owned by the bank or affiliate on January 1 of the current year.*

1760 *2. The book value of tangible personal property which shall be held for lease and is otherwise taxed*
 1761 *which is owned by such bank or in the name of a majority-owned subsidiary of the bank. If the bank*
 1762 *does not own all the stock of such subsidiary, it shall be entitled to deduct only such portion of the*
 1763 *assessed value of the real estate and the value of such tangible personal property as the common stock it*
 1764 *owns in such subsidiary bears to the whole issue of common stock of such corporation.*

1765 3. An amount which shall equal the same percentage of the gross capital account, defined as its
 1766 capital, surplus and undivided profits as set forth in § 58.1-1205 at December 31 next preceding as the
 1767 obligations of the United States bear to the total assets of the bank. Such percentage of U.S. obligations
 1768 shall be determined as of the four most recent (or less in case of a new bank) Reports of Condition and
 1769 the percentage obtained shall be averaged. For purposes of computing such percentage, total assets shall
 1770 not include the goodwill described in subdivision 5. The obligations of the United States as used herein
 1771 shall include all obligations of the United States exempt from taxation under 31 U.S.C. § 3124, of the
 1772 United States Constitution or any other statute, or any instrumentality or agency of the United States
 1773 which obligations shall be exempt from state or local taxation under the United States Constitution or
 1774 any statute of the United States.

1775 4. The amount of retained earnings and surplus of subsidiaries to the extent included in the gross
 1776 capital of the bank. *In addition, any portion of the amount added to federal taxable income pursuant to*
 1777 *subdivision B 9 of § 58.1-402 by a corporation that is for interest expenses and costs paid to the bank*
 1778 *for a loan or other obligation made by the bank to such corporation shall be deducted from the gross*
 1779 *capital of the bank provided that (i) at the time of payment of such portion to the bank, the bank was a*
 1780 *related member of the corporation, and (ii) such portion has not otherwise been deducted from gross*
 1781 *capital. For purposes of this subdivision, the terms "interest expenses and costs" and "related member"*
 1782 *mean the same as those terms are defined in § 58.1-302.*

1783 5. Any amount equal to ~~ninety~~ 90 percent of goodwill created in connection with any acquisition or
 1784 merger occurring on or after July 1, 2001.

1785 B. For purposes of this section, "goodwill" shall be determined using generally accepted accounting
 1786 principles.

1787 § 58.1-3833. County food and beverage tax.

1788 A. Any county is hereby authorized to levy a tax on food and beverages sold, for human
 1789 consumption, by a restaurant, as such term is defined in subdivision 9 of § 35.1-1, not to exceed ~~eight~~
 1790 ~~and one-half percent, when added to the state and local general sales and use tax, four percent~~ of the
 1791 amount charged for such food and beverages. Such tax shall not be levied on food and beverages sold
 1792 through vending machines or by any person described in subdivisions 1, 2, 3, and 5 of § 35.1-25, as
 1793 well as nonprofit cafeterias in public schools, nursing homes, and hospitals. Grocery stores and
 1794 convenience stores selling prepared foods ready for human consumption at a delicatessen counter shall
 1795 be subject to the tax, for that portion of the grocery store or convenience store selling such items.

1796 This tax shall be levied only if the tax is approved in a referendum within the county which shall be
 1797 held in accordance with § 24.2-684 and initiated either by a resolution of the board of supervisors or on
 1798 the filing of a petition signed by a number of registered voters of the county equal in number to 10
 1799 percent of the number of voters registered in the county, as appropriate on January 1 of the year in
 1800 which the petition is filed with the court of such county. The clerk of the circuit court shall publish
 1801 notice of the election in a newspaper of general circulation in the county once a week for three
 1802 consecutive weeks prior to the election. If the voters affirm the levy of a local meals tax, the tax shall
 1803 be effective in an amount and on such terms as the governing body may by ordinance prescribe. If such
 1804 resolution of the board of supervisors or such petition states for what projects and/or purposes the
 1805 revenues collected from the tax are to be used, then the question on the ballot for the referendum shall
 1806 include language stating for what projects and/or purposes the revenues collected from the tax are to be
 1807 used.

1808 The term "beverage" as set forth herein shall mean alcoholic beverages as defined in § 4.1-100 and
 1809 nonalcoholic beverages served as part of a meal. The tax shall be in addition to the sales tax currently
 1810 imposed by the county pursuant to the authority of Chapter 6 (§ 58.1-600 et seq.) of this title. Collection
 1811 of such tax shall be in a manner prescribed by the governing body.

1812 B. Notwithstanding the provisions of subsection A of this section, any county with a population of at
 1813 least 70,000 but no more than 100,000, any county with a population of at least 17,910 but no more
 1814 than 18,000, any county with a population of at least 34,000 but no more than 34,400, and any county
 1815 having a county manager plan of government are hereby authorized to levy a tax on food and beverages
 1816 sold for human consumption by a restaurant, as such term is defined in § 35.1-1 and as modified in
 1817 subsection A above and subject to the same exemptions, not to exceed four percent of the amount
 1818 charged for such food and beverages, provided that the governing body of the respective county holds a
 1819 public hearing before adopting a local food and beverage tax, and the governing body by unanimous
 1820 vote adopts such tax by local ordinance. The tax shall be effective in an amount and on such terms as
 1821 the governing body may by ordinance prescribe.

1822 C. Nothing herein contained shall affect any authority heretofore granted to any county, city or town
 1823 to levy a meals tax. The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax
 1824 levied under this section, mutatis mutandis. All food and beverage tax collections and all meals tax
 1825 collections shall be deemed to be held in trust for the county, city or town imposing the applicable tax.

1826 The wrongful and fraudulent use of such collections other than remittance of the same as provided by
1827 law shall constitute embezzlement pursuant to § 18.2-111.

1828 D. No county which has heretofore adopted an ordinance pursuant to subsection A of this section
1829 shall be required to submit an amendment to its meals tax ordinance to the voters in a referendum.

1830 E. Notwithstanding any other provision of this section, no locality shall levy any tax under this
1831 section upon alcoholic beverages sold in factory sealed containers and purchased for off-premises
1832 consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of
1833 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the
1834 following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads
1835 consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

1836 2. That the provisions of this act amending §§ 58.1-302, 58.1-391, 58.1-392, 58.1-402, and 58.1-441
1837 of the Code of Virginia and adding §§ 58.1-390.1, 58.1-393.1, 58.1-394.1, 58.1-394.2, and 58.1-395
1838 to the Code of Virginia shall apply for taxable years beginning on and after January 1, 2004. The
1839 amendments to subdivision D 2 of § 58.1-322 of the Code of Virginia pursuant to the provisions of
1840 this act shall apply for taxable years beginning on and after January 1, 2006.

1841 3. That the Tax Commissioner shall develop and publish guidelines for purposes of implementing
1842 the amendments to the Commonwealth's retail sales and use taxes pursuant to the provisions of
1843 this act. Such guidelines shall include, but shall not be limited to, a bracket system for the
1844 collection of retail sales and use taxes in the Commonwealth on transactions of \$5 or less. The
1845 development of such guidelines shall be exempt from the provisions of the Administrative Process
1846 Act (§ 2.2-4000 et seq.) of the Code of Virginia.

1847 4. That the amendments to § 58.1-609.3 of the Code of Virginia pursuant to the provisions of this
1848 act shall not result in sales or use tax liability for any tangible personal property purchased or
1849 leased pursuant to a bona fide contract for the sale or lease of tangible personal property that was
1850 entered into on or before March 1, 2004, and provided that such tangible personal property was
1851 placed in service on or before August 1, 2004.

1852 5. That notwithstanding any provision of law to the contrary, including § 56-582 of the Code of
1853 Virginia, any public utility that is, as a result of the provisions of this act, subject to a sales and
1854 use tax on tangible personal property purchased or leased for use or consumption by such utility
1855 in the rendition of its public service is hereby authorized to recover from each customer that
1856 customer's pro rata share of the public utility's actual expense therefor by means of a sales and
1857 use tax surcharge. The surcharge shall be subject to annual review and verification by the State
1858 Corporation Commission in the year subsequent to the surcharge, based on data provided in an
1859 annual information filing or other information provided to the State Corporation Commission by
1860 such utility; however, such review and verification shall neither constitute a rate case nor be the
1861 subject of a rate case. If the State Corporation Commission determines that the amount of the
1862 surcharge differed from the actual sales and use tax incurred as a result of the provisions of this
1863 act, a surcharge adjustment shall be applied in the following year. Any excess in the surcharge
1864 shall be refunded to ratepayers as a deduction against the surcharge to be imposed in that
1865 subsequent year. Any shortfall in the surcharge shall be recovered through an increase in the
1866 surcharge to be imposed in that subsequent year. A surcharge that is allocated on a proportionate
1867 basis or according to the allocation factors in the utility's most recent State Corporation
1868 Commission-approved cost allocation study shall be presumed valid.

1869 6. That the Tax Commissioner shall establish guidelines and rules for (i) transitional procedures in
1870 regard to the increase in the state cigarette tax and (ii) implementation of the tax on tobacco
1871 products under Article 2.1 (§ 58.1-1021.01 et seq.) of Chapter 10 of Title 58.1 of the Code of
1872 Virginia, pursuant to the provisions of this act. The development of such guidelines and rules by
1873 the Tax Commissioner shall be exempt from the provisions of the Administrative Process Act
1874 (§ 2.2-4000 et seq.).

1875 7. That the taxes set forth under Article 2.1 (§ 58.1-1021.01 et seq.) of Chapter 10 of Title 58.1 of
1876 the Code of Virginia pursuant to the provisions of this act shall be imposed beginning March 1,
1877 2005, for taxable sales or purchases under such article occurring on and after such date.

1878 8. That §§ 58.1-390, 58.1-394, 58.1-627, and 58.1-628 of the Code of Virginia are repealed.

1879 9. That notwithstanding the effective date for the \$100 increase in the personal exemption amount
1880 as provided herein in the amendment to subdivision D 2 a of § 58.1-322 of the Code of Virginia,
1881 such effective date shall be for taxable years beginning on and after January 1, 2005, provided
1882 that the Secretary of Finance certifies in writing by November 1, 2004, to the Governor and the
1883 Chairmen of the Senate Committee on Finance and the House Committee on Appropriations that
1884 sufficient new revenues as identified by the Secretary of Finance will be available to meet the
1885 additional fiscal impact of changing the effective date of the \$100 increase in the personal
1886 exemption amount.

1887 10. That the provisions of this act shall not become effective unless the Commonwealth's
1888 reimbursements to certain local governments for tangible personal property tax relief on
1889 qualifying vehicles, as such term is defined in § 58.1-3523 of the Code of Virginia, are set at \$950
1890 million per year for tax year 2006 and each succeeding tax year, payable over the 12-month
1891 period that corresponds with the Commonwealth's fiscal year, beginning July 2006, under
1892 legislation passed by the 2004 Special Session I of the General Assembly that becomes law.