

**REPORT OF THE
JOINT SUBCOMMITTEE STUDYING**

LOCAL REVENUE RESOURCES

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



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Final Report of the Joint Subcommittee Studying Local Revenue Resources

**To
The Governor and the General Assembly of Virginia**

**Richmond, Virginia
June 1995**

Executive Summary

Adopted by the 1994 Session of the General Assembly, HJR 160 established a joint subcommittee to examine local revenue resources. The resolution directed the subcommittee to identify and examine all local taxes and fees, review the equity of each tax and fee assessed, determine whether changes are needed in the tax structure relative to Virginia's changing economy, and recommend possible alternatives for replacement or consolidation of local taxes and fees.

As the Virginia economy expanded over the course of the last decade, local tax revenue increased substantially, particularly with regard to real property and tangible personal property taxes. Localities continue to rely heavily on property taxes, which comprise almost 64 percent of their total local-source revenue. Despite the increases, Virginia taxpayers have a relatively low tax burden. According to 1991 U.S. Census Bureau data, Virginia is ranked among the 50 states and the District of Columbia as 23rd on a per capita basis and only 44th when the state-local tax burden is measured as a percentage of personal income.

Localities derive their taxing authority from three major sources. The Virginia Constitution segregates real estate, coal and other mineral lands, and tangible personal property exclusively for taxation by local governments. Beyond their constitutional authority, localities' taxing authority is primarily statutory. The one exception to the statutory grant of authority is the Uniform Charter Powers Act, which is subject to inclusion in municipal charters. A major difference resulting from this general grant of taxing authority is that cities and towns which incorporate it into their charters may levy taxes in addition to those imposed by counties, but unlike counties, they are not subject to the rate limitations set out in the Code.

Major sources of local tax revenue include property taxes (including the real, personal property, machinery and tools and merchant's capital taxes); retail sales and use taxes; consumer utility taxes; motor vehicle license taxes; business, professional, and occupational license taxes;

transient occupancy taxes; recordation taxes; taxes on wills and grants of administration; bank franchise taxes; severance taxes; and recreation taxes. In addition to these sources of tax revenue, additional revenues are raised from other sources such as charges for services, licenses and permit fees, and fines and forfeitures assessed for violations of local ordinances. While an examination of fees is part of the subcommittee's charge, the primary focus of this report is tax revenue sources.

In examining the revenue structure of local governments, the subcommittee considered whether existing sources of revenue achieve the committed objective of local governments in a manner designed to prevent undue burdens upon the taxpayers; whether the various sources of revenue are adequate under present rates; and whether additional and new potential sources of revenue exist.

The subcommittee did not reach a point where any conclusions could be drawn or any recommendations made. Many items were raised for subcommittee consideration that need further examination. By authority of HJR 487 (1995) (Appendix H), which established the Commission on State and Local Government Responsibility and Taxing Authority, the study of this topic will continue and be extended to the broader issues of state and local government responsibility and taxing authority.

I. Introduction

Adopted by the 1994 Session of the General Assembly, HJR 160 establishes a joint subcommittee to examine local revenue resources (Appendix A). The resolution provides for a joint subcommittee of nine legislative members, including five members of the House of Delegates appointed by the Speaker and four members of the Senate appointed by the Senate Committee on Privileges and Elections.

In addition, the chairman was authorized by the subcommittee to appoint ad hoc citizen members as advisors. Those appointed include representatives from the Virginia Municipal League, Virginia Association of Counties, Virginia Commissioners of the Revenue Association, Treasurers' Association of Virginia, Virginia Chamber of Commerce, Virginia Hospitality and Travel Industry Association, and several members of the business community.

Within the past decade, the economy in Virginia has changed due to a variety of forces. As a result, it is appropriate that the revenue resources of local governments be examined. A complete examination of the state and local revenue resources has not occurred since 1980 when the Revenue Resources and Economic Commission completed over a decade of study.

Pursuant to HJR 160, the subcommittee was charged with the following duties:

1. To identify and examine all local taxes and fees;
2. To review the equity of each such tax and fee assessed and report which are the most efficient and least burdensome;
3. To determine whether changes are needed in the tax structure relative to Virginia's changing economy;
4. To determine which localities tax cellular telephone services, inventory and compare such tax rates, and evaluate the efficacy and impact of the application of such policies;¹
5. To recommend possible alternatives for replacement or consolidation of local revenue taxes; and
6. To submit its findings and recommendations to the Governor and the 1995 Session of the General Assembly.

¹During the 1994 Session of the General Assembly, legislation was adopting amending the Code to authorize all localities to impose the consumer utility tax on users of mobile telecommunication services, effective September 1, 1994. Accordingly, the subcommittee did not focus on the taxation of cellular telephone services other than in the general context of the entire study.

II. Background

A. Financing of Virginia's Counties and Cities

Virginia's counties and cities collected \$10,332,267,794 of total revenue from all sources in the fiscal year ending June 30, 1993. Local revenue is derived from three sources, as shown in Table 1: local-source, state transfer, and federal transfer (which includes pass-through moneys).

TABLE 1
Total Local Revenue

	Cities	Counties	Total	Percentage of Total
Locally Generated	\$2,453,270,810	\$4,077,153,125	\$6,530,423,935	63.20%
From the Commonwealth	1,264,748,715	1,869,981,332	3,134,730,047	30.34%
From the Federal Government	309,554,888	357,558,924	667,113,812	6.46%
Total Local Revenue From ALL Sources	\$4,027,574,413	\$6,304,693,381	\$10,332,267,794	100.00%

Of total local-source revenue, only 13.37 percent comes from fees and other sources. As shown in Table 2, the vast majority of local-source revenue comes from taxes. This report will focus on the various sources of tax revenue, the largest of which are real property and tangible personal property taxes.

As Table 2 indicates, localities rely heavily on property taxes, which comprise almost 64 percent of their total local-source revenue. For FY 1992-93, the real property tax, the single greatest source of tax revenue, provided the localities with 44.72 percent of their total revenue.

Many local taxes, including six shown in Table 2, generate less than two percent of total local revenue; however, some localities do not impose some of these taxes, such as the transient occupancy tax and the tobacco tax.

The "all other taxes" category in Table 2 includes a number of even smaller taxes, including the bank stock tax, the local tax on recordation and wills, motor fuel sales tax, and franchise taxes on public service corporations. Combined, these taxes comprise only 2.87 percent of total local-source revenue.

It should be noted that while Table 2 reports on local revenue sources for the combined total of all counties and cities, it does not measure qualitative differences between counties and cities in what each taxes. Appendix D provides that information. Table 2 also does not report local-source revenue for towns in Virginia.

There is also a disparity among the cities and counties because a small number of large jurisdictions account for a large share of combined total revenues. For FY 1992-93, four of the 41 cities provided 47.4 percent of all city revenues: Virginia Beach, 16.0 percent; Richmond, 11.9 percent; Norfolk, 10.3 percent; and Alexandria, 9.2 percent. Likewise, the top four of the 95 counties accounted for 57.2 percent of all county revenue: Fairfax, 35.8 percent; Arlington, 8.2 percent; Prince William, 7.3 percent; and Henrico, 5.9 percent.

TABLE 2
Composition of Total Local-Source Revenue: Virginia's Counties and Cities
Fiscal Year Ended June 30, 1993

Type of Tax	Cities	Counties	Total Revenue	% of Total	Cumulative Total
Property Taxes:					
Real Property	\$995,239,516	\$1,965,190,762	\$2,960,430,278	44.72%	44.72%
Tangible Personal Prop	272,220,253	583,245,110	855,465,363	12.92%	57.64%
Public Service Corp	65,090,486	124,695,504	189,785,990	2.87%	60.50%
Other	78,275,816	104,068,505	182,344,321	2.75%	63.26%
Total Property Taxes	\$1,410,826,071	\$2,777,199,881	\$4,188,025,952	63.26%	63.26%
Other Local Taxes:					
Local Sales & Use	\$202,785,025	\$269,556,734	\$472,341,759	7.13%	70.39%
Consumer Utility	173,459,506	143,640,365	317,099,871	4.79%	75.18%
BPOL	138,366,878	140,080,150	278,447,028	4.21%	79.39%
Meals	99,464,091	26,908,585	126,372,676	1.91%	81.30%
Motor Vehicle Licenses	31,922,817	58,229,221	90,152,038	1.36%	82.66%
Transient Occupancy	23,121,277	18,402,062	41,523,339	0.63%	81.92%
Tobacco	23,430,724	2,739,926	26,170,650	0.40%	83.68%
Severance	0	11,131,953	11,131,953	0.17%	83.85%
Admissions	6,365,310	66,359	6,431,669	0.10%	83.95%
All Other Taxes	34,192,517	65,725,450	190,070,005	2.87%	86.63%
Total Other Local Taxes	\$733,108,145	\$736,480,805	\$1,469,588,950	22.50%	86.63%
Total Tax Revenue	\$2,143,934,216	\$3,513,680,686	\$5,657,614,902	86.63%	86.63%
Charges for Services	\$173,284,136	\$352,987,628	\$526,271,764	7.95%	94.69%
Permits, Privilege Fees, & Regulatory Licenses	19,713,155	68,816,889	88,530,044	1.34%	96.00%
Fines & Forfeitures	21,388,029	19,907,660	41,295,689	0.62%	96.68%
Revenue from Use of Money & Property	34,941,963	78,160,936	113,102,899	1.71%	98.41%
Miscellaneous	60,009,311	43,599,327	103,608,638	1.56%	100.00%
Total Other Revenue	\$309,336,594	\$563,472,440	\$872,809,034	13.37%	100.00%
TOTAL LOCAL-SOURCE GENERATED REVENUE	\$2,453,270,810	\$4,077,153,125	\$6,530,423,935	100.00%	100.00%

SOURCE: Auditor of Public Accounts, Comparative Report of Local Government Revenues and Expenditures, Year Ended June 30, 1993, and unpublished data.

The localities' heavy reliance on property taxes has increased over the last decade. Table 3 provides a comparison of local-source revenue for the fiscal years 1982-83 and 1992-93, and shows that Virginia's counties and cities have increased their dependence on both the real property tax and the tangible personal property tax.

The tax with the largest increase was the tangible personal property tax, from 11.75 percent of total local-source revenue in 1982-83 to 13.10 percent in 1992-93. Table 3 also shows that Virginia's localities have reduced their reliance on other tax sources, including the sales and use tax and the consumer utility tax, over the course of the last decade.

TABLE 3
Change in Composition of Total Local-Source Revenue
Fiscal Years 1992-93 and 1982-83

	1982-83	% of Total	1992-93	% of Total	% Change	1992-93*	% Change*
Real Property	\$1,237,474,851	43.82%	\$2,960,430,278	45.33%	139.23%	\$2,048,617,753	65.55%
Tangible Personal Prop	331,925,074	11.75%	855,465,363	13.10%	157.73%	\$591,982,032	78.35%
Public Service							
Corporation Property	91,004,562	3.22%	189,785,990	2.91%	108.55%	\$131,331,905	44.31%
Other Property	68,191,286	2.41%	182,344,321	2.79%	167.40%	\$126,182,270	85.04%
Local Sales & Use	242,992,760	8.61%	472,341,759	7.23%	94.39%	\$326,860,497	34.51%
Consumer Utility	164,850,511	5.84%	317,099,871	4.86%	92.36%	\$291,433,111	33.11%
All Other Local Taxes	300,665,397	10.65%	680,147,320	10.42%	126.21%	\$470,661,945	56.54%
TOTAL TAX							
REVENUE	\$2,437,104,441	86.30%	\$5,657,614,902	86.64%	132.14%	\$3,915,069,513	60.64%
Charges for Services	\$186,389,586	6.60%	\$526,271,764	8.06%	182.35%	\$364,180,061	95.39%
Permits, Privilege							
Fees, & Regulatory							
Licenses	30,439,505	1.08%	88,530,044	1.36%	190.84%	\$61,262,790	101.26%
Fines & Forfeitures	17,517,185	0.62%	41,295,689	0.63%	135.74%	\$28,576,617	63.13%
Revenue from Use of							
Money & Property	107,842,800	3.82%	113,102,899	1.73%	4.88%	\$78,267,206	(27.42%)
Miscellaneous	44,542,427	1.58%	103,608,638	1.59%	132.52%	\$71,669,497	60.90%
TOTAL LOCAL-SOURCE							
GENERATED REVENUE	\$2,823,835,944	100.00%	\$6,530,423,935	100.00%	131.26%	\$4,519,025,684	60.03%

*Figures and percentage of change have been reduced by the amount of inflation utilizing the Consumer Price Index (CPI-U). Base year is 1982.

SOURCE: Auditor of Public Accounts, Comparative Report of Local Government Revenues and Expenditures, Year Ended June 30, 1983 and Year Ended June 30, 1993.

It is difficult to accurately and fairly compare local taxes and local tax burdens among the 50 states, due to the diversity in the level of responsibilities among the local governments. However, to gain some perspective, Table 4 compares Virginia's state and local tax revenue with that of the other states based on two different measures: (i) per capita, where total state and local tax revenue is simply divided by the population of the state, and (ii) percentage of personal income, where total tax revenue is divided by the state's total personal income. This latter measure may more accurately reflect tax burden, since most taxes are ultimately paid out of personal income.

TABLE 4
State and Local Tax Collections Per Capita and as
a Percentage of Personal Income: 1991

State	Collections		Collections as a	
	Per Capita	Rank	Percentage of Personal Income	Rank
Alabama	\$1,364.05	49	9.18%	49
Alaska	\$4,411.41	1	21.03%	1
Arizona	\$2,002.46	21	12.74%	7
Arkansas	\$1,337.42	50	9.50%	47
California	\$2,282.56	10	11.20%	23
Colorado	\$1,959.96	22	10.61%	33
Connecticut	\$2,666.72	6	10.47%	38
Delaware	\$2,080.56	18	10.56%	35
District of Columbia	\$4,036.83	2	17.19%	2
Florida	\$1,829.98	31	10.05%	45
Georgia	\$1,796.70	32	10.73%	28
Hawaii	\$2,866.66	4	14.36%	4
Idaho	\$1,604.02	42	10.81%	27
Illinois	\$2,132.44	14	10.53%	36
Indiana	\$1,739.00	34	10.40%	40
Iowa	\$1,947.28	25	11.37%	19
Kansas	\$1,929.89	27	10.69%	31
Kentucky	\$1,729.24	36	11.60%	16
Louisiana	\$1,654.05	40	11.49%	18
Maine	\$2,032.68	19	11.87%	14
Maryland	\$2,283.77	9	10.61%	34
Massachusetts	\$2,468.99	7	10.90%	26
Michigan	\$2,106.20	17	11.54%	17
Minnesota	\$2,347.80	8	12.66%	8
Mississippi	\$1,302.06	51	10.22%	42
Missouri	\$1,595.76	44	9.19%	48
Montana	\$1,571.70	45	10.41%	39
Nebraska	\$1,954.93	24	11.23%	22
Nevada	\$1,942.16	26	10.70%	29
New Hampshire	\$1,914.69	28	9.14%	50
New Jersey	\$2,777.83	5	11.18%	24
New Mexico	\$1,721.82	37	12.30%	9
New York	\$3,336.58	3	15.15%	3
North Carolina	\$1,672.48	38	10.40%	41
North Dakota	\$1,733.57	35	11.37%	20
Ohio	\$1,851.73	30	10.62%	32
Oklahoma	\$1,671.36	39	10.91%	25
Oregon	\$2,017.23	20	11.98%	12
Pennsylvania	\$1,887.06	29	10.16%	43
Rhode Island	\$2,132.25	15	11.33%	21
South Carolina	\$1,560.85	46	10.48%	37
South Dakota	\$1,488.60	47	9.52%	46
Tennessee	\$1,410.01	48	9.07%	51
Texas	\$1,757.36	33	10.69%	30
Utah	\$1,600.68	43	11.71%	15
Vermont	\$2,121.04	16	12.16%	11
VIRGINIA	\$1,959.86	23	10.08%	44
Washington	\$2,236.39	12	12.18%	10
West Virginia	\$1,630.03	41	11.92%	13
Wisconsin	\$2,226.13	13	12.80%	6
Wyoming	\$2,252.87	11	14.05%	5
U.S.	\$2,083.28		11.27%	

SOURCE: Compiled by Author from Government Finances: 1990-91, U.S. Bureau of the Census.

Virginia taxpayers paid approximately \$1,960 in state and local taxes for 1991, ranking Virginia, on a per capita basis, 23rd of the 50 states and the District of Columbia. In Table 5, a comparison of neighboring states shows only the State of Maryland (ranked ninth) and the District of Columbia (ranked second) with a higher per capita amount of state and local taxes.

If state and local tax revenue is measured by the level of personal income, however, state and local tax revenue in Virginia equaled \$100.80 per \$1,000 of personal income (10.08 percent of total personal income). Using this measure, Virginia ranked 44th among the 50 states and the District of Columbia. Of Virginia's neighboring states, only Tennessee had a lighter tax burden.

TABLE 5
State and Local Tax Burden: Virginia and Neighboring States*

	State & Local Tax Revenue Per Capita	Rank	State & Local Tax Revenue Per \$1,000 of Income	Rank
District of Columbia	\$4,036.83	2	\$171.90	2
Georgia	\$1,796.70	32	\$107.31	28
Kentucky	\$1,729.24	36	\$116.00	16
Maryland	\$2,283.77	9	\$106.08	34
North Carolina	\$1,672.48	38	\$103.95	41
South Carolina	\$1,560.85	46	\$104.83	37
Tennessee	\$1,410.01	48	\$90.07	51
VIRGINIA	\$1,959.86	23	\$100.80	44
West Virginia	\$1,630.03	41	\$119.23	13
U.S. Average	\$2,083.28		\$112.67	

**Includes the District of Columbia*

A breakdown of local tax collections per capita for Virginia's cities and counties can be found in Appendix B. The appendix shows that, on average, cities have a higher per capita local tax burden than counties, with \$936.26 and \$885.99, respectively. The cities with the highest per capita tax burdens are all Northern Virginia localities: Falls Church (\$2,167.92), Fairfax (\$1,778.74) and Alexandria (\$1,711.29). The City of Radford has the lowest per capita local tax burden (\$351.33).

With regard to counties, those with the highest per capita tax burden are Bath (\$1,915.81), Arlington (\$1,644.60), Surry (\$1,535.21), Fairfax (\$1,464.87), and Loudoun (\$1,379.01).² The county with the lowest is Pittsylvania (\$233.85).

It should be noted that tax collections are a function of both the tax base and the tax rate. Both Bath and Surry counties have large tax bases due to the location of major Virginia Power facilities in their jurisdictions. Therefore, they have small relative tax rates. In 1991, the average effective tax rate in Surry County was \$0.46 per \$100 compared with a \$0.93 state average.

B. Taxing Authority

1. Constitution

The authority of the General Assembly, and limitations on such authority concerning taxation by local governments, are set out in Article X of the Virginia Constitution. Because the General Assembly inherently has the power to tax and to delegate such authority to local

² Bath and Surry both have a high tax per capita because of the location of a Virginia Power nuclear generating plant within the county.

governments, the principal purpose of Article X is to restrict the taxing powers the General Assembly may grant to local governments.

The Constitution segregates certain sources of tax revenue exclusively for taxation by the state and others by the localities.³ Section 4 of Article X specifically provides that real estate, coal and other mineral lands, and tangible personal property, except rolling stock of public service corporations, are to be taxed only by local governments.

2. Virginia Code

The taxing authority of local governments is essentially statutory and is set out primarily in Subtitle III, Chapters 30 through 39, of Title 58.1 of the Code of Virginia. Appendix C summarizes the taxing powers granted to the localities and provides statutory references to the Code of Virginia.

Major sources of tax revenue include retail sales and use tax; consumer utility taxes; motor vehicle and trailer license taxes; business, professional, and occupational license taxes; transient occupancy taxes; recordation taxes; taxes on wills and grants of administration; bank franchise taxes; recreation taxes; and special and sanitary district taxes.

3. Uniform Charter Powers Act

The one exception to the statutory grant of taxing authority is the Uniform Charter Powers Act. As the Virginia County Supervisors' Manual states:

The Code of Virginia sets forth in considerable detail the items of wealth or wealth-producing activities which may be taxed by local governments. As a result, counties and cities now enjoy relatively parallel tax powers, except for the broad grant of taxing power contained in the Uniform Charter Powers Act that is subject to inclusion in municipal charters.⁴

Section 15.1-841 of the Code of Virginia refers to the taxing powers granted under the Uniform Charter Powers Act and states:

§ 15.1-841. Taxes and assessments. A municipal corporation may raise annually by taxes and assessments on property, persons and other subjects of taxation, which are not prohibited by law, such sums of money as in the judgment of the municipal corporation are necessary to pay the debts, defray the expenses, accomplish the purposes and perform the functions of the municipal corporation, in such manner as the municipal corporation deems necessary or expedient.

Under this section, cities and towns which have incorporated the Uniform Charter Powers Act into their charters have a general taxing authority. Accordingly, such cities and towns may in fact impose taxes as a result of this provision, or through explicit authority granted in their

³Virginia Constitution, Article X, Sections 1 through 4.

⁴Marsha S. Mashaw, *Virginia County Supervisors' Manual*, Fourth Edition, revised (Virginia Association of Counties and the University of Virginia, 1982), p.96.

charters, which may not be levied by counties. A major difference resulting from this general grant of taxing authority is that cities and towns which incorporate it into their charter may levy taxes in addition to those imposed by counties; unlike counties, they are not subject to the rate limitations set out in the Code.

C. Local Taxes

The following section briefly describes each of the local taxes imposed by Virginia's counties, cities, and towns.⁵ Appendix D lists the number of cities and counties which levy the various taxes.

1. Taxes on Property

a. **REAL PROPERTY.** The real property tax is assessed annually against the fair market value of all taxable real estate. Fair market value is determined by an appraisal process which may occur as frequently as annually or as infrequently as every six years.⁶

Certain types of property which may not technically constitute real property, fixtures, or improvements to real estate are taxed like real estate. Mineral and timber lands are also taxed as real estate, although they are to be separately listed and assessed. Mobile homes, although they may constitute real property under the law of fixtures, are classified as tangible personal property but may not be taxed at a rate greater than that applicable to real property.⁷

b. **LAND USE TAXATION.** In 1971, the General Assembly adopted legislation for the purpose of preserving land dedicated to agricultural, horticultural, forestal, and open space uses by reducing or deferring increased taxes due to a potential "higher use." The concept is based on the assumption that encroaching development and resulting higher property taxes compelled farm owners to sell their land. Land use taxation is a local option program, and localities may elect to include any or all of the four classifications of property in their ordinance. The State Land Evaluation Advisory Council annually determines and publishes a range of suggested values for each of the special uses. These values are advisory, however, and the ultimate valuation is made by the commissioner of the revenue or other local assessing officer. In addition to the special use value, the local assessor also determines the fair market value of the special use property at its highest and best use.

When the landowner changes the use of the land, liability for roll-back taxes attaches and is computed by adding the amount of deferred tax for the five most recent completed tax years, including simple interest at the rate applicable to the delinquent taxes. In addition, taxes for the current tax year are recalculated. The amount of deferred tax for each year is the difference

⁵Material from this section has been liberally extracted from *A Legislator's Guide to Taxation in Virginia, Vol.2: Local Taxes*. Division of Legislative Services.

⁶Cities are required to reassess at least every two years, while smaller cities (total population of 30,000 or less) may elect to reassess every four years. Large counties are required to reassess at least every four years, while counties with smaller populations (50,000 or less) may reassess every five or six years. Va. Code §§ 58.1-3250, 58.1-3251, and 58.1-3252.

⁷Va. Code §§ 58.1-3506 A 8 and 58.1-3506 B.

between the tax actually levied and paid and the tax that would have been paid if fair market value assessments had been utilized.

2. Property Tax Exemptions

The majority of property tax exemptions are found in Article X, Section 6 of the Virginia Constitution, which includes the following:

1. Property owned directly or indirectly by the Commonwealth or any of its political subdivisions;
2. Property owned and exclusively occupied or used by churches or religious bodies for religious worship or for the residences of their ministers;
3. Nonprofit cemeteries;
4. Property owned by nonprofit public libraries or nonprofit institutions of learning, as long as such property is primarily used for literary, scientific or educational purposes or purposes incidental thereto;
5. Intangible personal property, or any class or classes thereof, as may be provided for in general law;
6. Property used by its owner for religious, charitable, patriotic, historical, benevolent, cultural or public park and playground purposes, as may be provided by classification or designation by a three-fourths vote of the General Assembly;
7. Land subject to a perpetual easement permitting inundation by water as provided by general law;
8. By local option, property owned and occupied as their sole dwelling by persons 65 years of age or older or permanently and totally disabled, who are deemed by the General Assembly to be bearing an extraordinary tax burden on such property in relation to their income and financial worth;
9. By local option, pollution control or solar energy equipment, facilities, or devices, including real property; and
10. By local option, partial exemption of real estate which has undergone substantial renovation, rehabilitation, or replacement.

Article X, Section 6 of the Constitution also provides that property tax exemptions are to be strictly construed. Items 1, 2, 3, and 4 above are self-executing; that is, they do not require statutes to implement them.⁸

Item 6 above authorizes the General Assembly, by a three-fourths vote in each house, to exempt charitable organizations from property taxation either by designation (naming the specific organization) or by classification (naming a class or groups similarly situated). Since this provision first appeared in the Constitution in 1971, through the end of the 1994 Sessions of the General Assembly, slightly over 600 organizations have been granted exempt status by designation. Few of those exemptions were granted on a state-wide basis; most are granted on a local jurisdiction basis only.

⁸However, the General Assembly has chosen to duplicate the language of the Constitution in subdivision A of § 58.1-3606.

In 1978, the General Assembly determined that the proliferation of tax exemptions constituted one of the reasons local tax bases continued to erode and attempted to devise a method for dealing with the problem. A study authorized by HJR 32 and continued by HJR 227 in 1979 culminated in the Report of the Joint Subcommittee to Study Real Property Tax Exemptions.⁹ The report stated that localities' percentages of tax exempt property ranged from four percent to 45 percent of the tax base, with a median of 18 percent. Although governmental property accounted for the largest portion of exempt property, "the private sector's share is quite substantial."¹⁰

The report also noted that the Commonwealth's "control over exemption policy is an accident of history" and a remnant left over from a period of time when the Commonwealth itself taxed such property. However, the subcommittee concluded "that it was impossible to make meaningful changes affecting existing exemptions. No charitable organization was willing to exchange a sure exemption for uncertainty, regardless of the equity of the proposal or the minimal extent of the uncertainty." As a result, the subcommittee was left with merely standardizing the procedure by which new exemptions are to be granted.

That procedure has been codified in § 30-19.04 of the Code of Virginia. Any legislative committee is prohibited from considering such exemption legislation unless the request for legislation is accompanied by a resolution of the governing body of the affected locality either supporting or refusing to support the exemption. Such legislation which is supported by local government is routinely enacted unanimously by each session of the General Assembly.

3. Service Charges

Article X, Section 6 (g) of the Constitution permits the General Assembly to authorize local governments to impose service charges on otherwise tax exempt property.¹¹ Certain property is excluded from this provision, including the land and buildings of churches used exclusively for worship and property used exclusively for private educational or charitable purposes. The service charge is based on the amount the locality expended in the preceding year for providing services to the exempted property; the services to be considered include only police and fire protection and refuse collection. Any such service charge is capped at 20 percent of the real estate tax rate, or at 50 percent in the case of faculty and staff housing for private educational institutions.

Concerned that the service charge had been imposed, for the most part, only upon the property of the Commonwealth, the General Assembly amended the Code to restrict the use of the service charge to those localities where the value of real estate owned by the Commonwealth, excluding hospitals, educational institutions, or roadway property, exceeds three percent of the value of all real estate within the jurisdictions' boundaries.

⁹House Document No. 35 (1980).

¹⁰*Id.*, at 7-8.

¹¹Codified in Chapter 34 (§ 58.1-3400 et seq.) of Title 58.1 of the Code of Virginia.

4. Tangible Personal Property

Tangible personal property was segregated for local taxation in 1927.¹² Cities, counties and towns may levy a tax on the tangible personal property of businesses and individuals. For tax purposes, personal property is property that, by its location and character, shows that the owner intends it to be movable. Household goods and personal effects are classified separately to enable localities to exempt them from the personal property tax.¹³ Localities are also authorized to exempt or tax at a lower rate farm machinery and equipment.¹⁴

Since 1979, the number of classifications for tax rate purposes has increased considerably, from eight in 1979 to the current 22. The classification statutes set the upper limit of the tax rate on these classes at the rate on tangible personal property. The localities are not required to establish different tax rates on these different classes of property, but are given the option to adopt lower rates.

The tax is imposed by the locality where the property has situs. The situs, or location, of personal property is the county, city, or town in which the property is physically located on the tax day, which in most localities is January 1. However, the situs for purposes of assessment of motor vehicles, travel trailers, boats and airplanes is the locality where the vehicle is normally garaged, docked, or parked. When situs cannot be determined it is considered to be the owner's jurisdiction.¹⁵

Localities are required to assess tangible personal property at fair market value. However, localities are authorized to assess each class of tangible personal property according to a different method so long as the method used is uniform within each class.

a. MACHINERY AND TOOLS. Counties, cities, and towns are required to segregate machinery and tools used in a trade or business as a separate classification of tangible personal property. The tax rate, however, cannot exceed that imposed on other classes of tangible personal property.¹⁶

b. MERCHANTS' CAPITAL. The merchants' capital tax may be imposed by localities that do not impose a business, professional and occupational license tax ("BPOL").¹⁷ The rate of the merchants' capital tax may not exceed the rate and ratio which were in effect in a locality on January 1, 1978.¹⁸ Localities, however, may still lower the tax liability of merchants by changing the nominal rate, the assessment ratio, or both. Merchants' capital is defined as inventory of stock on hand, daily rental passenger cars as defined in § 58.1-2401 of the Code, daily rental property,

¹²Chapter 576, 1926 Acts of Assembly.

¹³Chapter 72, 1958 Acts of Assembly; Va. Code § 58.1-3504.

¹⁴Va. Code § 58.1-3505.

¹⁵Va. Code § 58.1-3511.

¹⁶Va. Code § 58.1-3507.

¹⁷Generally, more counties levy the merchants' capital tax, while cities and towns opt to levy the BPOL tax. In 1993, the merchants' capital tax was levied by 52 counties, while none of the independent cities imposed the tax. *1993 Tax Rates in Virginia's Cities, Counties, and Selected Towns*, Center for Public Service, University of Virginia.

¹⁸Va. Code § 58.1-3509.

and all other taxable personal property of any kind except (i) money on hand and on deposit and (ii) tangible personal property not offered for sale as merchandise.¹⁹

5. Taxes on Individuals/Consumers

a. SALES AND USE. Tangible personal property sold or used in the Commonwealth is subject to the Virginia retail sales and use tax unless the property is exempt from taxation by statute. A transaction subject to the sales tax is not subject to the use tax. Sales and use tax exemptions are classified into the following ten categories: (i) governmental and commodities, (ii) agricultural, (iii) commercial and industrial, (iv) educational, (v) services, (vi) media-related, (vii) medical-related, (viii) nonprofit civic and community service, (ix) nonprofit cultural organizations, and (x) miscellaneous.²⁰

Virginia's counties and cities are authorized to impose up to a one percent local sales and use tax on a tax base identical to the state tax base. All counties and cities have chosen to impose the local tax at the maximum rate of one percent, which means there is a uniform 4.5 percent sales and use tax rate imposed throughout the Commonwealth, including the 3.5 percent state tax rate.

State tax revenues generated by one percent of the 3.5 percent tax rate are distributed to counties and cities on the basis of the number of school-age children in each locality according to the most recent statewide census of school-age population taken by the Department of Education. The state revenues distributed to each locality must be used for maintenance, operation, capital outlay, debt, and other expenses incurred in the operation of public schools.

The one percent local sales tax collected with the state tax is distributed to counties and cities based upon the point of sale.²¹ The revenues collected are distributed to the general fund of the locality and may be used for any purpose. Towns located within a county do not have authority to levy the local sales tax unless the county has not levied the tax. However, the town is entitled to a portion of the local revenues collected by the county.

Every retail dealer is required to collect the sales and use tax from the purchaser and remit the taxes collected to the Department of Taxation on or before the twentieth day of each month following the month of collection. The Department may require a dealer to file returns on a quarterly basis to simplify administration of the sales tax.²² Dealers are subject to civil and criminal penalties for failing to collect sales tax.²³

b. MOTOR FUEL. Certain localities are authorized to impose a special local sales and use tax on motor fuel of up to two percent of the retail price of the fuel. Motor fuel is one of the categories of tangible personal property which is exempt from the general sales and use tax base. The Code of Virginia authorizes the imposition of this tax by any county or city that is a member

¹⁹Va. Code § 58.1-3510.

²⁰Va. Code §§ 58.1-609.1 through 58.1-609.10.

²¹Va. Code § 58.1-605.

²²Va. Code § 58.1-615.

²³Va. Code §§ 58.1-635 and 58.1-636.

of the Northern Virginia Transportation District or any transportation district contiguous to the Northern Virginia Transportation District (currently, only the Potomac-Rappahannock Transportation District). The tax is levied like a sales and use tax but is essentially a motor fuel tax, since the tax is incorporated into the pump price of the motor fuel.

c. DAILY RENTAL PROPERTY.²⁴ The daily rental property tax is a tax on the gross proceeds²⁵ of any person engaged in the short-term rental business. Localities are authorized to levy the daily rental property tax in an amount not to exceed one percent.

d. MOTOR VEHICLE LICENSE. Counties, cities, and towns are authorized to impose a license tax on motor vehicles, trailers, and semi-trailers not to exceed that imposed by the state. The situs for the imposition of the license tax is the locality in which the vehicle is normally garaged, stored, or parked. If it cannot be determined where the personal property is normally located, the situs is the domicile of its owner. If the owner of the vehicle is a college student, the situs is the domicile of the student.

e. CONSUMER UTILITY. The consumer utility tax is a local option tax which localities are authorized to impose on consumers of telephone services,²⁶ water, heat, light, and power.²⁷ The tax on residential customers may not exceed 20 percent of the first \$15 of the monthly bill. However, any locality imposing a higher rate prior to July 1, 1972, may continue to tax at that rate, but may not raise it further. There are no limitations on the rates imposed on nonresidential consumers, i.e., commercial or industrial consumers.

The 1994 Session of the General Assembly amended the statute to authorize localities to levy the consumer utility tax on users of mobile telecommunication services, effective September 1, 1994. The tax rate on such services may not exceed 10 percent of the monthly gross charge and is only applicable to the first \$30 of the monthly bill.

The local utility tax is collected by the public service corporations or service providers as part of the monthly bill, with virtually no administrative costs to the locality. Localities are authorized to pay a commission of up to five percent of collections for collecting the tax if the tax is remitted in a timely fashion.²⁸

If a town imposes the tax, the county tax does not apply within the town if it operates its own school system or provides police or fire services and water or sewer services.

Every city with the exception of Bedford, and 82 of the 95 counties reported a utility consumers' tax in effect during the 1993 tax year.²⁹

²⁴"Daily rental property" means all tangible personal property held for rental and owned by a person engaged in the short-term rental business, except trailers as defined in § 46.2-100 and other tangible personal property required to be licensed or registered with the Department of Motor Vehicles, Department of Game and Inland Fisheries, or the Department of Aviation. Va. Code § 58.1-3510.

²⁵"Gross proceeds" means the total amount charged to each person for the rental of daily rental property, excluding any state and local sales tax paid under the provisions of Chapter 6 (§ 58.1-600 et seq.) of this title. Va. Code § 58.1-3510.1.

²⁶Va. Code § 58.1-3812.

²⁷Va. Code § 58.1-3814.

²⁸Va. Code § 58.1-3816.1.

²⁹1993 Tax Rates in Virginia's Cities, Counties, and Selected Towns, Center for Public Service, University of Virginia.

f. TRANSIENT OCCUPANCY. The transient occupancy tax is a local tax based on the charge for lodging in hotels, motels, boarding houses, travel campgrounds and other facilities offering guest rooms rented out for continuous occupancy for fewer than 30 consecutive days. Counties are authorized to impose a tax of up to two percent based on the amount of the charge of the occupancy.³⁰ By special act, Arlington County is authorized to impose a tax of five percent.³¹ Cities and towns may impose the tax without limitation under their "general taxing powers" provided under the Uniform Charter Powers Act. If a town imposes a transient occupancy tax, a county may not levy the same tax within the territorial limits of the town unless the town grants the county the authority to do so.³²

g. MEALS. The food and beverage tax, also known as the meals tax, is a local tax based on the amount charged for certain prepared foods and beverages. Counties are limited to an 8.5 percent tax rate, but this includes the 4.5 percent sales and use tax, resulting in an effective meals tax cap of four percent. Prior to the imposition of the meals tax, the tax must be approved in a voter referendum in the county, unless the county is exempt from this requirement.³³ Under the general taxing powers provided in the Uniform Charter Powers Act, any city or town may levy a meals tax without any limit on the tax rate. As with other local taxes, when a town imposes the meals tax, it prevents the county in which the town is located from imposing the county meals tax with the town, unless the town specifically allows the imposition of the county tax within the town's geographical limits.

h. INCOME. Virginia's local income tax is a "piggy-back" tax based on a percentage of Virginia taxable income. The 1989 Special Session of the General Assembly authorized localities with the urban county executive form of local government, and those adjacent to it, to impose a local income tax on top of the state tax rate for individuals and corporations at a maximum tax rate of one percent strictly for transportation purposes.³⁴ Prior to imposition of the tax, the locality must have the approval of a majority of the voters in a local referendum. By local option the tax may be imposed in lesser increments than one percent as long as such increments are stated in one-quarter percents (i.e., .25 percent, .50 percent, or .75 percent). If imposed, the tax automatically expires five years from its effective date in the locality. To date, not one locality has held a referendum to initiate the tax.

i. CIGARETTES. The cigarette tax is a flat fee levied on each pack of cigarettes. The local cigarette tax is added on to the price of each pack prior to its purchase. Cities may impose the tax provided they had the authority to do so under their charter prior to January 1, 1977. Only two counties, Arlington and Fairfax, have been granted statutory authority to levy the cigarette tax and are subject to a maximum rate of five cents per pack or the amount levied under state law, whichever is greater. Under the general taxing powers provided in the Uniform Charter

³⁰Va. Code § 58.1-3819.

³¹Chapter 265, 1977 *Acts of Assembly*.

³²Va. Code §§ 58.1-3711 and 58.1-3819.

³³Va. Code § 58.1-3833.

³⁴Although not mentioned by name in the statute, only the Northern Virginian localities Arlington, Fairfax, Loudoun, and Prince William Counties, and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park, Norfolk and Virginia Beach are authorized to impose a local income tax. Va. Code § 58.1-540.

Powers Act, any city or town may levy the cigarette tax without any restriction on the rate charged.

j. ADMISSIONS. The admissions tax is a local tax based on the charge for admission to certain events which are divided into five classes.³⁵ Localities may tax each class of admissions with the same or a different tax rate. Cities and towns may impose the tax without limitation under their "general taxing powers" provided under the Uniform Charter Powers Act. However, of Virginia's counties, only four (Fairfax, Arlington, Dinwiddie, and Prince George) are authorized to levy an admissions tax at a rate not to exceed 10 percent of the amount of charge for admissions. Only one of the four counties, Dinwiddie, currently levies the admissions tax.

k. RECORDATION. The recordation tax is a tax imposed on the privilege of recording any deed, lease, contract, or mortgage relating to real estate and certain railroad rolling stock. Currently the state recordation tax is 15 cents per \$100 or fraction thereof. On deeds of bargain and sale, the tax is imposed on the sales price or the actual value of the property conveyed, whichever is greater. The option is placed in the statute as a safeguard to ensure that the consideration is not understated as a tax avoidance measure. On deeds of trusts and mortgages, the tax is imposed on the amount of debt, bonds, or obligation secured by the debt instrument.³⁶

Localities are authorized to impose a local recordation tax in an amount equal to one-third of the amount of the state recordation tax.³⁷ Almost all Virginia cities and counties have exercised this authority and enacted a local recordation tax.

l. PROBATE. The probate tax is a tax on the probate of every will or grant of administration. Counties and cities are authorized to impose a local probate tax in an amount equal to one-third of the state probate tax.³⁸

m. E-911 EMERGENCY SERVICES. Any county, city or town which has established or will establish an enhanced 911 emergency telephone system is authorized to impose a special local tax on consumers of telephone services.³⁹

6. Taxes on Businesses

a. BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE (BPOL). Counties, cities, or towns may levy a local license tax on business, trades, occupations, and professions.⁴⁰ The tax is commonly referred to as the BPOL tax. The basis for the tax is normally gross receipts, but will always be the same for all individuals engaged in the same business.⁴¹ Some occupations and businesses are exempt from the tax, including but not limited to certain public service

³⁵Va. Code § 58.1-3817.

³⁶Va. Code §§ 58.1-801 and 58.1-803.

³⁷Va. Code § 58.1-3800. However, § 58.1-3802 provides that the authority granted under § 58.1-3800 does not supersede or repeal any city charter provision. For example, the City of Bristol is authorized under its charter to impose a recordation tax at one-half the rate of the state's tax. Therefore, City of Bristol imposes a local recordation tax at the rate of 7½ cents per \$100 of consideration or actual value.

³⁸Va. Code § 58.1-3805.

³⁹Va. Code § 58.1-3813.

⁴⁰Va. Code § 58.1-3703.

⁴¹Va. Code § 58.1-3705.

corporations and manufacturers who sell merchandise at wholesale at the place of manufacture.⁴² For counties, the license tax imposed does not apply in any town in the county where the town has a similar tax, unless the town's governing body makes provision for the county to apply the tax.

The situs for the BPOL tax is any county, city, or town in which the individual maintains an office or carries on principal and essential business. If such taxable situs is in more than one local jurisdiction, the tax in any one jurisdiction may not exceed the amount of business attributable to that local jurisdiction.

In general, the limits on the BPOL tax rates are that:⁴³

"[N]o local tax imposed ... shall be greater than thirty dollars or the rate set forth below for the class of enterprise listed, whichever is higher:

1. For contracting, and persons constructing for their own account for sale, sixteen cents per \$100 of gross receipts;
2. For retail sales, twenty cents per \$100 of gross receipts;
3. For financial, real estate and professional services, fifty-eight cents per \$100 of gross receipts; and
4. For repair, personal and business services, and all other businesses and occupations not specifically listed or excepted in this section, thirty-six cents per \$100 of gross receipts."⁴⁴

A breakdown of BPOL revenue as a percentage of local-source revenue for fiscal year 1993 can be found in Appendix E.

b. UTILITY LICENSE. The utility license tax is a local license tax on public service corporations, including telephone and telegraph companies, water companies, and heat, light and power companies.⁴⁵ Localities are authorized to levy a utility license tax in an amount not to exceed one-half of one percent of the gross receipts accruing to the company from business within the locality.

c. SEVERANCE. Severance taxes are excise taxes levied on the production of natural resources when "severed" from the earth. In Virginia, such taxes relate to coal, oil, and natural gas. Article X of the Constitution of Virginia specifically segregates coal and other mineral lands for local taxation only.

Any city or county in the Commonwealth may impose a license tax on persons who sever coal or gases from the earth. The tax rate may not exceed one percent of the gross receipts from the sale of the coal or gas. If a city or county imposes a severance tax, it may not levy the mineral lands tax under § 58.1-3286 of the Code.⁴⁶

⁴²Va. Code § 58.1-3703 B.

⁴³These rates were adopted as a result of a recommendation by the Revenue Resources Commission in its 1978 report.

⁴⁴Va. Code § 58.1-3706.

⁴⁵Va. Code § 58.1-3731.

⁴⁶Va. Code § 58.1-3712.

In addition, cities or counties may impose an additional levy of one percent of the gross receipts from the sale of gas severed within the county or city.⁴⁷ The revenue received from the additional tax is paid into the general fund of the county or city, except in the City of Norton and the Counties of Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, and Wise, where one-half of the revenues must be paid into the Virginia Coalfield Economic Development Fund. The purpose of this fund is to enhance the economic base for the above-named localities which belong to the Virginia Coalfield Economic Development Authority.

Cities or counties may also levy a license tax on every person engaged in the severing of oil from the earth. The tax rate may not exceed one-half of one percent of the gross receipts from the sale of the oil severed in the city or county.

d. COAL AND GAS ROAD IMPROVEMENT. In addition to the severance tax on coal and gas, cities and counties may levy a local coal and gas improvement tax at a rate of one percent on the gross receipts of coal and gas companies, for a combined rate of two percent.⁴⁸ The revenue collected by this additional one percent tax must be paid into a special fund for the purpose of making expenditures for the improvement to public roads within the collecting locality. At its discretion, the county may elect to improve city or town roads with the municipality's approval. Each city and county which imposes this tax has a coal and gas road improvement advisory committee, which must develop an annual plan before July 1 for road improvements to be implemented in the following year. For cities and counties that belong to the Virginia Coalfield Economic Development Authority, the receipts from the tax are to be distributed as follows: three-fourths for the coal and road improvement fund⁴⁹ and one-fourth to the Virginia Coalfield Economic Development Fund.

e. ALCOHOL LICENSE. The alcohol license tax is a tax on persons licensed by the Virginia Alcoholic Beverage Control Board to manufacture, bottle or sell alcoholic beverages. In addition to the state alcohol license, counties, cities, and towns may provide for the issuance of a local license.⁵⁰ The locality may classify licenses and graduate the taxes among the classes subject to maximum rates for each class set out in the Code.⁵¹ A county alcohol license tax does not apply within the geographical limits of a town if the town also imposes an alcohol license tax.⁵²

f. BANK FRANCHISE. The bank franchise tax is a tax assessed against the "net capital"⁵³ of banks and bank holding companies. The tax is imposed at the rate of one dollar on each \$100 of net capital,⁵⁴ and any city, town, or county may impose a bank franchise tax, not to exceed 80

⁴⁷Va. Code § 58.1-3713.4.

⁴⁸Va. Code § 58.1-3713.

⁴⁹However, one-fourth of this revenue may be used to fund the construction of new water systems and lines in areas with natural water supplies which are insufficient from the standpoint of quality or quantity.

⁵⁰Va. Code § 4.1-205.

⁵¹Va. Code § 4.1-233.

⁵²Va. Code § 4.1-233 E.

⁵³Net capital is defined as capital, surplus, and undivided profits, less certain deductions, including assessed value of real estate, book value of tangible personal property, loan loss reserves included in undivided profits or capital reserves, capital accounts of nonbanking subsidiaries, miscellaneous deductions, and U.S. obligations. Va. Code § 58.1-1205.

⁵⁴Va. Code § 58.1204.

percent of the state tax rate on each \$100 of net capital of such bank located in the jurisdiction.⁵⁵ Any bank paying such a local bank franchise tax is entitled to a credit on its state return.⁵⁶ Therefore, 80 percent of the bank franchise tax is paid into the treasuries of the localities in which the bank is doing business.

D. Mandates on Local Governments⁵⁷

State and federal mandates and their impact on localities are a continuing source of concern for local officials. Mandates can influence the organization, staffing levels, service offerings, administrative procedures, budgets, and spending of all local governments. In addition, mandates may require localities to redirect their resources to meet state and federal rather than local objectives.

The Joint Legislative and Audit Review Commission ("JLARC") has prepared several studies of mandates on local governments in the last decade. In particular, two studies have addressed issues surrounding state and federal mandates.

In 1983, JLARC conducted a study of state mandates on local governments and local financial conditions. The study had three primary objectives: (1) to identify state mandates and the extent to which they impose a burden on local governments; (2) to examine the adequacy of the amount and type of state financial assistance to localities; and (3) to determine whether local governments have sufficient local financial resources to fund the public services they must provide.

The study found that generally local officials agreed with the substance of state mandates, but were concerned with levels of state funding to meet those mandates. JLARC concluded that state funding of mandates was substantial in all but a few areas. As an appendix to this study, JLARC staff prepared an inventory of state mandates on local governments.

Because the issue of mandates continued to concern local officials, the 1990 Session of the General Assembly directed JLARC to followup on its 1983 study.⁵⁸ The study focused on the major issues surrounding intergovernmental mandates and financial assistance, including the extent of local service responsibilities, the availability of local financial resources, and the adequacy of state financial and technical assistance to local governments. Local officials expressed concerns over such problems as a lack of flexibility in the implementation of mandates, inadequate funding for mandates, unequal taxing authority for cities and counties, and lack of adequate taxing authority for all localities. JLARC concluded that the state had played a stable role in providing revenues to local governments. However, JLARC also noted that federal revenues have declined dramatically, despite significant new federal mandates imposed on localities.

⁵⁵Va. Code §§ 58.1-1208 through 58.1-1210.

⁵⁶Va. Code § 58.1-1213.

⁵⁷ The material in this section was extracted liberally from the 1993 *Report of the Joint Legislative Audit and Review Commission, 1993 Update: Catalog of State and Federal Mandates on Local Governments*. HD No. 2. (1994).

⁵⁸ HJR 156 and SJR 45.

JLARC presented alternative methods to reduce the short-term adverse impact of mandates, including agency reviews of mandates to identify those that could be relaxed or eliminated, temporary suspension of selected mandates, and pilot-testing mandates prior to statewide implementation. Their final recommendation was that a catalog of mandates be maintained and periodically updated to provide legislators with comprehensive, up-to-date information about mandates on local governments.

The above recommendations were substantially adopted by the General Assembly during the 1993 Session, including directing the Commission on Local Government to prepare and annually update a catalog of state and federal mandates on local governments. The catalog was published in June 1993 and includes state and federal mandates on local governments as of April 1993.

The catalog identifies 391 state and federal mandates on local governments in the following areas:⁵⁹

1. Education;
2. Health and human services;
3. Public safety;
4. Public works;
5. Community development;
6. Parks, recreation, and libraries;
7. Administration of the judicial system; and
8. Administration of government.

The areas most affected by mandates are education, health and human services and public works. The impact of these mandates varies from minimal reporting requirements to significant service requirements.

A majority of the mandates (56%) are required regardless of whether a locality receives any funding for the mandated program. Other mandates are required either as a condition of financial assistance or of a locality's choosing to perform a nonmandated activity. Though optional, this latter form of a "mandate" affects most localities, since they pertain to necessary local functions such as the construction and operation of water and wastewater facilities and the construction.

The state imposes most of the current mandates on local governments. Of the 391 mandates identified, 290 are solely state directives. Forty-five requirements are imposed solely by the federal government. The remaining 56 mandates have both state and federal origins.

⁵⁹ Mandates were identified through mail surveys of state and local governments and through a review of the Code of Virginia and the Appropriation Act.

III. Issues

In 1968, the General Assembly created the Revenue Resources and Economic Study Commission. Beginning that year and through 1980, the Commission conducted an ambitious study of the state's revenue structure. The fundamental issue raised by the resolution creating the Commission was the adequacy and fairness of the state's revenue structure, specifically, (i) whether a changing economy, shifting population, and expanded government activity have rendered present resources inadequate to meet the demands upon them and (ii) whether the present revenue and tax structure as it has developed is equitable.⁶⁰

Similarly, the joint subcommittee created pursuant to HJR 160 has been called upon to examine local revenue resources and specifically to:

1. Identify and examine all local taxes and fees;
2. Review the equity of each such tax and fee assessed and report which are the most efficient and least burdensome;
3. Determine whether changes are needed in the tax structure relative to Virginia's changing economy;
4. Determine which localities tax cellular telephone services, inventory and compare such tax rates and evaluate the efficacy and impact of the application of such policies;⁶¹ and
5. Recommend possible alternatives for replacement or consolidation of local revenue taxes.

Although the scope is narrower in that only local revenue resources were studied by the subcommittee, the fundamental issues are the same for this subcommittee as they were for the Revenue Resources and Economic Study Commission.

Accordingly, the subcommittee concentrated on the following issues:

- ◆ Whether the existing sources of revenue achieve the committed objectives of local governments in a manner designed to prevent undue burdens upon the taxpayers.
- ◆ Whether the various sources of revenue are adequate under present rates or require revision.
- ◆ Whether additional and new potential sources of revenue exist.

⁶⁰*The Commonwealth's Revenue Structure*, Report of the Revenue Resources and Economic Study Commission. SD 8 (1969).

⁶¹During the 1994 Session of the General Assembly, legislation was adopted amending the Code to authorize all localities to impose the consumer utility tax on users of mobile telecommunication services, effective September 1, 1994. Accordingly, the subcommittee did not focus on the taxation of cellular telephone services other than in the general context of the entire study.

IV. Work of the Joint Subcommittee

The joint subcommittee was required by HJR 160 to report its findings and recommendations to the Governor and the 1995 Session of the General Assembly. In pursuing its legislative mandate, the joint subcommittee met six times.

- ◆ *July 6, 1994; Richmond.* At its organizational meeting, the subcommittee elected Robert D. Hull as chairman and Senator W. Henry Maxwell as vice chairman. The chairman then announced his intention to appoint ad hoc members, including local elected officials and representatives from the business community, to assist the subcommittee in its deliberations.
- ◆ *October 12, 1994; Richmond.* During the second meeting, DLS staff briefed the subcommittee on the study's background and issues. This presentation was followed by presentations by representatives of the Virginia Municipal League (VML), the Virginia Association of Counties (VACo), and the Virginia Chamber of Commerce. A verbatim transcript of this meeting is available.
- ◆ *October 17, 1994; Virginia Municipal League Annual Conference, Norfolk.* The joint subcommittee held a public hearing during the annual VML conference to receive input from VML members and to listen to their concerns. A verbatim transcript of this meeting is available.
- ◆ *November 14, 1994; Virginia Association of Counties Annual Conference, Hot Springs.* The subcommittee provided a similar opportunity to members of VACo during its annual conference.
- ◆ *December 19, 1994; Richmond.* As a result of the Governor's announcement of his intent to introduce legislation to gradually phase-out the business, professional and occupational license tax, the subcommittee provided an opportunity to representatives of local government and business to present their views on the elimination of the tax. The subcommittee heard from representatives of VML, VACo, and the Fairfax County Chamber of Commerce. A work session was then held to examine new data, including estimates from the Department of Taxation of certain alternatives for increasing local revenues.
- ◆ *January 12, 1995; Richmond.* The subcommittee met to approve a resolution continuing the study (HJR 487, Appendix H).

A. Local Government Concerns

Existing taxing authority is vital to local governments, and localities are concerned that this should not be limited in any way. In fact, counties argue that they should have the same taxing authority as cities and towns which have incorporated the Uniform Charter Powers Act into their charters.

Localities believe that, given the considerable effort that local governments are making to generate sufficient revenue to pay for local programs, the state has more capacity to increase its taxes than do local governments. Localities generally support either greater state assumption of services or some form of broad-based state tax that would be distributed to local governments.

In addressing proposals to eliminate the BPOL tax, local government representatives expressed concern that such proposals would diminish local taxing authority and reduce the diversity of the local tax base, thereby shifting the tax burden to property taxes. Further concern was expressed that a loss of a predictable source of revenue such as the BPOL tax might also adversely affect a locality's bond rating.

B. Business Concerns

The main concerns of the business community are twofold: (i) preservation of tax policy in the Commonwealth which makes Virginia a favorable place to do business and (ii) preservation of strict adherence to the Dillon rule in tax matters.

As expressed by the Virginia Chamber of Commerce, the business community supports a revenue structure which is equitable, broad-based, and non-regressive. Further, the Chamber feels that taxes should be few in number and easy to administer, with the tax burden distributed primarily among income, sales, and property taxes.

Further, the Chamber is concerned that if the Commonwealth abandoned its traditional adherence to the Dillon Rule and allowed all localities to have general taxing authority, there would be a tremendous loss of tax predictability and uniformity among localities. Companies operating throughout the Commonwealth would have to identify and calculate taxes separately for virtually every locality in which they do business. A uniform tax structure is, therefore, a crucial incentive for businesses to locate and remain within the Commonwealth.

Clearly, the business community, especially the Northern Virginia high technology companies, considers the BPOL tax to be burdensome. The information industry typically functions with relatively high volume/low profit margin operations, and these companies feel that they have above average BPOL tax burdens.

In response to these concerns, the Fairfax County Board of Supervisors amended its BPOL tax structure by reducing tax categories, creating new exemptions, and codifying administrative practices which improve the clarity of the tax categories, effective January 1, 1995. Also, the joint subcommittee which has been studying the BPOL tax pursuant to HJR 110 (1994), approved a recommendation for a model BPOL local ordinance which provides more equity in the current system. Legislation to effect this was introduced in 1995, but it was not approved.

C. Topics of Discussion

As part of and as a result of testimony, the subcommittee discussed the following topics:

- ◆ Piggy-back income tax.
- ◆ One-half percent increase in the sales tax.
- ◆ Sales and use tax on services currently exempted from the tax.
- ◆ Adequacy of the county, city, and town structure for current fiscal conditions.
- ◆ Equal taxing authority for counties and cities and towns.
- ◆ Local corporate income tax.
- ◆ Local option gasoline tax.
- ◆ Lowered real property taxes.
- ◆ Elimination of the BPOL tax.
- ◆ Taxing authority for local school boards.
- ◆ Incentives for revenue sharing.
- ◆ Return of lottery proceeds to localities.

On the subject of the structure of county, city, and town governments, the subcommittee explored this issue and found that there is more flexibility in government and interlocal government structure than many believe. Appendix F lists the alternatives permitted by the Code for interlocal relationships. Much of the current flexibility is an outgrowth of the work of the Commission on Local Government Structures and Relationships which reported its recommendations in 1990.

The subcommittee requested information from the Department of Taxation concerning the local revenue raising alternatives that were mentioned in testimony more often than the other topics. Specifically, a piggy-back local income tax, a one-half percent increase in the sales tax, and imposition of the sales and use tax on services currently exempted from the tax were examined.

Appendix G presents this information as provided by the Department of Taxation for informational purposes only. The subcommittee has taken no position on these issues. For individual income tax increases, the effective date was assumed to be January 1, 1994. The effective date for the sales tax increases and for the taxing of services was assumed to be July 1, 1994. Estimates of the sales tax rate increases assumed that all additional revenues would be returned to localities and that no dealer discounts would be allowed on this amount.

V. Conclusion

The subcommittee recognizes the importance of undertaking a study of local revenue resources. The breadth and complexity of such a study mandates a thorough examination of this topic. The subcommittee feels that as Virginia shifts to a more service-based economy, the revenue resources, as well as service responsibilities, of counties, cities, and towns must be re-examined.

The subcommittee began this re-examination, but has not reached a point where any conclusions can be drawn or recommendations made. Many items were raised for subcommittee consideration that need further examination. The members are, therefore, pleased that the study of this topic will continue and be extended to explore the broader issues of state and local government responsibility and taxing authority.

It should be noted that in the discussions of the possible imposition of new taxes and elimination of old ones, the underlying assumption was that a trade-off existed; that is, new taxes would only be imposed as a replacement for certain current ones, and current taxes would not be eliminated without replacement of some source of revenue for the locality.

Many representatives of local governments suggested they would like to see additional taxing authority, and could not afford to eliminate any of the current taxes. However, the subcommittee believes that the imposition of too many taxes by localities will be seen as burdensome and oppressive.

The subcommittee feels that great care must be exercised in choosing alternatives, but takes no position on whether or not additional taxes are needed. If further study shows a need, the subcommittee envisions that a menu of tax options might be offered to all localities such that one or another package of taxing alternative may be chosen, but not all.

Further, as the study of this topic continues, the subcommittee suggests that Adam Smith's description of the four features of a "good" tax be kept in mind:

1. The tax will raise the desired amount of revenue.
2. The tax is considered fair and equitable.
3. The costs of administering and complying with the tax are not excessive.
4. The tax must not create economic inefficiencies by causing market distortions.

The joint subcommittee extends its gratitude to all interested persons who contributed to its work.

Respectfully submitted,

Delegate Robert D. Hull, *CHAIRMAN*
Senator W. Henry Maxwell, *VICE CHAIRMAN*
Senator Brandon J. Bell
Delegate Howard E. Copeland
Delegate Riley E. Ingram
Senator Kevin G. Miller
Delegate Harry R. Purkey
Delegate Lionell Spruill, Sr.
Senator Kenneth W. Stolle

VI. Appendices

- A. House Joint Resolution No. 160 (1994).
- B. Local Tax Collections Per Capita.
- C. Taxing Powers Granted to Virginia Counties, Cities and Towns.
- D. Breakdown of Local Tax Revenue of Cities and Counties, FY 1990.
- E. Business, Professional, and Occupational License Revenue as a Percentage of Local Own-Source Revenue, FY 1993.
- F. Alternative Approaches to Interlocal Concerns.
- G. Estimates of Certain Revenue-Raising Alternatives.
- H. House Joint Resolution No. 487 (1995).

Appendix A

House Joint Resolution No. 160 (1994)

HOUSE JOINT RESOLUTION NO. 160

Establishing a joint subcommittee to examine local revenue resources and the local taxation of cellular telephone services.

Agreed to by the House of Delegates, February 11, 1994

Agreed to by the Senate, March 8, 1994

WHEREAS, fiscal pressures are being experienced by all levels of government, but none are more severe than those of local governments; and

WHEREAS, the fiscal pressure at the local level results from federal and state mandates as well as from the various limitations and conditions which are imposed on local tax and fee sources and tax rates; and

WHEREAS, the economy of Virginia is changing and, as a result, the tax structure needs to be examined periodically to ensure that the local tax structure is efficient, promotes equity, and serves the needs of local governments as well as its citizens; and

WHEREAS, consumers of traditional telecommunication services may be subject to local utility taxes, and telecommunications technology, particularly with respect to mobile or cellular telephone services, has rapidly advanced in recent times; and

WHEREAS, consumers of such mobile or cellular telephone services are not subject to local taxation under the current law, as it was enacted far before the advent of such services; and

WHEREAS, there is concern among localities regarding the application of local utility taxes on various telecommunications services; and

WHEREAS, from 1968 through 1980 the Revenue Resources and Economic Commission examined both the state and local tax structures and recommended changes to improve both the equity and efficiency of the tax structures; and

WHEREAS, the state and local tax structures have not been thoroughly examined since that time, and Virginia's economy is undergoing tremendous changes and these changes will likely accelerate; and

WHEREAS, these changes will affect our tax structure and impact local governments; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to study local revenue resources and the local taxation of cellular telephone services.

The joint subcommittee shall be composed of nine members as follows: five members of the House of Delegates to be appointed by the Speaker of the House; and four members of the Senate to be appointed by the Senate Committee on Privileges and Elections.

The joint subcommittee shall (i) identify and examine all local taxes and fees, (ii) review the equity of each such tax and fee assessed, and report which are the most efficient and least burdensome, (iii) determine the changes need in the tax structure relative to Virginia's changing economy, (iv) determine which localities tax cellular telephone services, inventory and compare such tax rates, and evaluate the efficacy and impact of the application of such policies, and (v) recommend possible alternatives for replacement or consolidation of local revenue taxes.

The direct costs of this study shall not exceed \$6,750.

The Division of Legislative Services shall provide staff support for the study. Technical assistance shall be provided by the Department of Taxation and the State Corporation Commission. All agencies of the Commonwealth shall provide assistance to the joint subcommittee, upon request.

The joint subcommittee shall complete its work in time to submit its findings and recommendations to the Governor and the 1995 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

#

Appendix B
Local Tax Collections Per Capita

LOCAL TAX COLLECTIONS PER CAPITA BY LOCALITY: 1993

LOCALITY	<u>General Property Taxes</u> PER CAPITA	<u>Other Local Taxes</u> PER CAPITA	TOTAL
<u>CITY OF:</u>			
ALEXANDRIA	\$1,271.64	\$439.65	\$1,711.29
BEDFORD	341.69	198.14	539.83
BRISTOL	396.79	306.21	703.00
BUENA VISTA	342.43	162.25	504.68
CHARLOTTESVILLE	578.55	408.72	987.27
CHESAPEAKE	723.02	292.35	1,015.37
CLIFTON FORGE	306.08	206.79	512.87
COLONIAL HEIGHTS	629.97	369.09	999.06
COVINGTON	579.83	345.80	925.63
DANVILLE	289.40	203.61	493.01
EMPORIA	448.35	455.20	903.55
FAIRFAX	1,065.79	712.95	1,778.74
FALLS CHURCH	1,519.36	648.56	2,167.92
FRANKLIN	408.35	280.92	689.27
FREDERICKSBURG	720.12	462.79	1,182.91
GALAX	401.47	436.30	837.77
HAMPTON	502.94	255.26	758.20
HARRISONBURG	374.94	395.68	770.62
HOPEWELL	679.79	210.35	890.14
LEXINGTON	330.12	205.79	535.91
LYNCHBURG	503.61	383.21	886.82
MANASSAS	989.27	254.33	1,243.60
MANASSAS PARK	763.39	244.46	1,007.85
MARTINSVILLE	367.89	265.33	633.22
NEWPORT NEWS	564.66	232.87	797.53
NORFOLK	526.36	358.48	884.84
NORTON	287.32	532.74	820.06
PETERSBURG	461.20	246.22	707.42
POQUOSON	580.14	105.89	686.03
PORTSMOUTH	468.20	243.02	711.22
RADFORD	211.97	139.36	351.33
RICHMOND	830.29	436.79	1,267.08
ROANOKE	558.94	415.80	974.74
SALEM	672.95	374.05	1,047.00
SOUTH BOSTON	329.53	273.07	602.60
STAUNTON	411.05	233.31	644.36
SUFFOLK	491.15	185.63	676.78
VIRGINIA BEACH	576.72	260.65	837.37
WAYNESBORO	557.74	300.54	858.28
WILLIAMSBURG	445.24	841.21	1,286.45
WINCHESTER	496.51	509.05	1,005.56
TOTAL	\$616.11	\$320.15	\$936.26

LOCAL TAX COLLECTIONS PER CAPITA BY LOCALITY: 1993

CONTINUED

LOCALITY	General Property Taxes <u>PER CAPITA</u>	Other Local Taxes <u>PER CAPITA</u>	TOTAL
<u>COUNTY OF:</u>			
ACCOMACK	\$367.69	\$107.10	\$474.79
ALBERMARLE	595.57	234.66	830.23
ALLEGHANY	485.78	110.04	595.82
AMELIA	323.38	101.29	424.67
AMHERST	227.30	116.21	343.51
APPOMATTOX	261.85	74.05	335.90
ARLINGTON	1,171.49	473.11	1,644.60
AUGUSTA	302.14	141.79	443.93
BATH	1,809.05	106.76	1,915.81
BEDFORD	330.38	58.38	388.76
BLAND	221.94	59.34	281.28
BOTETOURT	368.52	115.24	483.76
BRUNSWICK	222.51	74.03	296.54
BUCHANAN	294.82	352.31	647.13
BUCKINGHAM	220.11	80.46	300.57
CAMPBELL	254.29	73.39	327.68
CAROLINE	429.69	123.70	553.39
CARROLL	179.67	67.05	246.72
CHARLES CITY	479.47	69.38	548.85
CHARLOTTE	271.16	53.83	324.99
CHESTERFIELD	702.39	193.51	895.90
CLARKE	530.41	66.30	596.71
CRAIG	246.26	60.52	306.78
CULPEPER	499.27	112.27	611.54
CUMBERLAND	217.26	80.72	297.98
DICKENSON	453.67	301.87	755.54
DINWIDDIE	359.01	100.12	459.13
ESSEX	400.91	137.02	537.93
FAIRFAX	1,204.66	260.21	1,464.87
FAUQUIER	785.78	122.99	908.77
FLOYD	309.49	79.93	389.42
FLUVANNA	373.58	62.26	435.84
FRANKLIN	271.50	104.88	376.38
FREDERICK	462.45	153.67	616.12
GILES	327.02	66.30	393.32
GLOUCESTER	467.60	127.81	595.41
GOOCHLAND	483.40	110.09	593.49
GRAYSON	195.62	58.79	254.41
GREENE	396.73	79.67	476.40
GREENSVILLE	281.41	82.73	364.14
HALIFAX	191.55	112.97	304.52
HANOVER	556.87	142.35	699.22
HENRICO	674.72	248.02	922.74
HENRY	257.86	153.65	411.51

LOCAL TAX COLLECTIONS PER CAPITA BY LOCALITY: 1993
CONTINUED

LOCALITY	General Property Taxes PER CAPITA	Other Local Taxes PER CAPITA	TOTAL
<u>COUNTY OF:</u>			
HIGHLAND	\$459.42	\$78.60	\$538.02
ISLE OF WIGHT	571.73	85.44	657.17
JAMES CITY	783.09	275.36	1,058.45
KING & QUEEN	409.34	58.44	467.78
KING GEORGE	430.96	131.63	562.59
KING WILLIAM	399.39	71.18	470.57
LANCASTER	484.85	95.91	580.76
LEE	198.01	77.12	275.13
LOUDOUN	1,182.33	196.68	1,379.01
LOUISA	770.69	64.00	834.69
LUNENBURG	266.87	58.43	325.30
MADISON	339.38	82.91	422.29
MATHEWS	415.34	71.81	487.15
MECKLENBURG	193.84	80.94	274.78
MIDDLESEX	503.88	76.12	580.00
MONTGOMERY	276.74	68.92	345.66
NELSON	540.65	85.66	626.31
NEW KENT	579.55	92.99	672.54
NORTHAMPTON	431.49	86.29	517.78
NORTHUMBERLAND	472.50	75.09	547.59
NOTTOWAY	202.49	61.43	263.92
ORANGE	438.15	93.13	531.28
PAGE	217.23	74.49	291.72
PATRICK	218.40	70.31	288.71
PITTSYLVANIA	168.51	65.34	233.85
POWHATAN	346.76	64.10	410.86
PRINCE EDWARD	197.59	108.83	306.42
PRINCE GEORGE	301.18	82.92	384.10
PRINCE WILLIAM	949.37	177.04	1,126.41
PULASKI	269.20	93.00	362.20
RAPPAHANNOCK	485.19	102.84	588.03
RICHMOND	312.76	120.51	433.27
ROANOKE	605.75	193.66	799.41
ROCKBRIDGE	353.79	177.47	531.26
ROCKINGHAM	411.05	73.59	484.64
RUSSELL	243.25	97.37	340.62
SCOTT	184.89	80.78	265.67
SHENANDOAH	360.93	83.53	444.46
SMYTH	200.92	69.89	270.81
SOUTHAMPTON	357.16	76.46	433.62
SPOTSYLVANIA	605.02	203.48	808.50
STAFFORD	604.50	135.69	740.19
SURRY	1,484.29	50.92	1,535.21
SUSSEX	331.69	72.31	404.00
TAZEWELL	237.53	92.36	329.89

LOCAL TAX COLLECTIONS PER CAPITA BY LOCALITY: 1993
CONTINUED

LOCALITY	General Property Taxes	Other Local Taxes	TOTAL
	PER CAPITA	PER CAPITA	
<u>COUNTY OF:</u>			
WARREN	\$308.48	\$88.16	\$396.64
WASHINGTON	260.11	98.84	358.95
WESTMORELAND	410.96	49.29	460.25
WISE	221.89	204.77	426.66
WYTHE	259.38	109.18	368.56
YORK	513.72	161.39	675.11
TOTAL	\$676.57	\$179.42	\$855.99

SOURCE: Compiled by the Author from Comparative Report of Local Government Revenues and Expenditures, Year Ended June 30, 1993, Auditor of Public Accounts.

Appendix C



Taxing Powers Granted to Virginia Counties, Cities and Towns

Taxing Powers Granted to Virginia Counties, Cities and Towns

Tax and Authority	Local Governments Empowered to Levy	County-Town Relationship	Remarks
TAXES ON PROPERTY			
Real Property (§ 58.1-3200)	Counties Cities Towns Special Districts	Town tax is levied in addition to county tax. Towns may conduct own reassessment, but none currently do so; all rely on county assessment.	See Note 2 for discussion on special district taxes.
Tangible Personal Property (§ 58.1-3501)	Counties Cities Towns	Town tax is levied in addition to county tax.	
Machinery and Tools (§ 58.1-3507)	Counties Cities Towns	Town tax is levied in addition to county tax.	Rate may not be higher than that levied on tangible personal property.
Merchants' Capital (§ 58.1-3509)	Counties Cities Towns	Town tax is levied in addition to county tax.	Rate may not exceed the rate in effect on 1/1/78. May not be levied on any class on which BPOL tax is levied.
TAXES ON INDIVIDUALS; CONSUMERS			
Sales and Use (§§ 58.1-605; 58.1-606)	Counties Cities		Limited to 1% of the gross sales price of an item. Towns with separate school districts receive a proportion of the county's total sales tax revenue, based on school-age population: For all other towns, one-half of the county's revenue is divided among the county and towns, based on school-age population.
Motor Vehicle License (§ 46.2-752)	Counties Cities Towns	Imposition of tax by town constitutes a credit for taxpayers on the county tax. The taxpayer is liable to the county for the difference between the town tax and the county tax.	Tax may not exceed motor vehicle license tax imposed by State.
Utility Consumers (§§ 58.1-3812, 58.1-3814)	Counties Cities Towns	If a town imposes the tax, the county tax does not apply within the town if it operates its own school system or provides police or fire services and water or sewer services.	Rate not to exceed 20% and applicable only to first \$15 of bill for residential customers. Effective 9/1/94, statute explicitly authorizes tax on mobile telecommunication services; rate not to exceed 10% and applicable only to first \$30 of bill.
Transient Occupancy (§§ 58.1-3819 - 58.1-3822; 58.1-3840)	Counties Cities Towns	If town levies tax, county tax to apply only if town agrees.	counties limited to maximum rate of 2%; no limit on cities or towns. Arlington may levy tax up to 5%, under certain conditions. Arlington may impose additional .25% tax through 1996 if additional revenues are used to promote tourism.
Meals (§§ 58.1-3833; 58.1-3840)	Counties Cities Towns	If town levies tax, county tax applicable in town only if council agrees.	Counties limited to maximum rate of 4% and may levy tax only after approval in referendum, except for certain counties which may impose tax if unanimously approved by board of supervisors. No limit on towns or cities and referendum not required.

Taxing Powers Granted to Virginia Counties, Cities and Towns, *Continued*

Tax and Authority	Local Governments Empowered to Levy	County-Town Relationship	Remarks
TAXES ON INDIVIDUALS; CONSUMERS			
CONTINUED			
Income (§ 58.1-540)	Cities: Norfolk, Virginia Beach, Alexandria, Fairfax, Falls Church, Manassas, Manassas Park Counties: Fairfax, Arlington, Loudoun, Prince William		Limited to maximum of 1%; must be approved by referendum. Revenues must be used for transportation facilities. Tax can be levied for only 5 years from the effective date of the tax.
Cigarettes (§ 58.1-3830)	Arlington and Fairfax Counties Cities Towns		Cities and towns may levy tax only if they had authority to do so prior to 1/1/77. Arlington and Fairfax limited to tax of \$.05 per pack, or amount levied by State law, whichever is greater.
Admissions (§§ 58.1-3818; 58.1-3840)	Fairfax, Arlington, Dinwiddie, Prince George, & Roanoke Counties Cities Towns	County tax is in addition to any town tax.	Counties authorized to levy tax are limited to maximum of 10% except Roanoke, which has general charter power.
Recordation (§ 58.1-3800)	Counties Cities		Limited to one-third of State recordation tax.
Probate (§ 58.1-3805)	Counties Cities		Limited to one-third of State recordation tax.
E-911 (§ 58.1-3813)	Counties Cities Towns	If a town imposes the tax, the county tax does not apply within the town if the town operates its own school system or provides police or fire services and water or sewer services.	Limited to amount needed to fund initial capital costs, installation, and subsequent maintenance costs of system.

TAXES ON BUSINESSES

Business, Professional and Occupational (BPOL) (§ 58.1-3700, et al)	Counties Cities Towns	Counties cannot levy BPOL taxes within a town that also levies BPOL taxes, unless the town agrees.	Commonly called "gross receipts tax"; may be levied on almost any type of business or occupation. State law places variety of caps on rates that can be levied against particular types of businesses. No category can be required to pay both merchants' capital tax and BPOL tax to the same jurisdiction.
Daily Rental Property (§ 58.1-3510.1, et al)	Counties Cities Towns	The town tax is in addition to the county tax.	Similar to sales tax; limited to 1% of amount charged for rental property.
Coal Severance (§ 58.1-3712)	Counties Cities		Limited to maximum of 1% of gross receipts from sale of coal mined.
Gas Severance (§§ 58.1-3712 and 58.1-3713.4)	Counties Cities		Limited to maximum of 2% of gross receipts from sale of gas produced. 25% of revenues in counties and city in Southwest Virginia paid to Virginia Coalfield Economic Development Fund.

Taxing Powers Granted to Virginia Counties, Cities and Towns, *Continued*

Tax and Authority	Local Governments Empowered to Levy	County-Town Relationship	Remarks
TAXES ON BUSINESSES CONTINUED			
Coal and Gas Road Improvement (§ 58.1-3713)	Counties Cities	20% of revenue in Wise County required to be distributed to towns and city situated in county. Of that portion, 25% distributed according to number of motor vehicles and remainder divided equally.	Limited to maximum of 1% of gross receipts of sale of coal or gas mined or produced. 75% of proceeds go into special road improvement fund; 25% of revenue paid to Virginia Coalfield Economic Development Fund.
Oil Severance (§ 58.1-3712.1)	Counties Cities		Limited to maximum of .5% of gross receipts of sale of oil produced. Authority expires in 1995.
Utility License (§ 58.1-3731)	Counties Cities Towns	If a town levies tax, county tax applicable in town only if council agrees	Form of BPOL tax. Limited to maximum of .5% of gross receipts of company accruing from business in locality.
Alcohol License (§§ 4.1-205; 4.1-233)	Counties Cities Towns	If a town levies tax, county tax not applicable in town.	Localities authorized to collect license taxes from persons engaged in manufacturing, selling, or bottling alcoholic beverages and mixed beverages. maximum taxes set by State law.
Bank Franchise (SS 58.1-1208 - 58.1-1211)	Counties Cities Towns	Counties may tax only those banks outside town corporate limits.	Limited to maximum of 80% of the State rate.
Cable TV Franchise (§ 15.1-23.1)	Counties Cities Towns		Federal Regulations limit franchise fee, in most circumstances, to 5% of gross revenue. (Local governments may also levy BPOL tax on cable systems.)

NOTES:

1. This table outlines taxing authority allowed local governments by statutory law. In addition to this authority, cities and towns which have incorporated the Uniform Charter Powers Act (§§ 15.1-837 through 15.1-907) into their charters have a general taxing authority (§ 15.1-841). Consequently, some municipalities may levy taxes as a result of this provision, or through explicit authority granted in their charters, which are not on this chart.
2. Counties, cities, and towns, acting through special districts, can levy property taxes for a variety of purposes. (§§ 15.1-18.2 and 15.1-18.3) In addition, counties can create sanitary districts for a variety of services and fund them through a tax on property in the districts. Counties can also levy property taxes, either countywide or in one or more magisterial districts, to pay for contracted fire protection services (§ 27-3). The General Assembly has also authorized the creation of special transportation districts within counties or between counties. Special property taxes can be levied on business or commercial properties within those districts (§§ 15.1-791.1 and 15.1-1372.1).

SOURCE: Commission on Local Government, "Taxing Powers Granted to Virginia Counties, Cities, and Towns," Staff Report, May 1994.

Appendix D

Breakdown of Local Tax Revenue of Cities and Counties FY 1990

Breakdown of Local Tax Revenue of Cities and Counties FY 1990

Item	CITIES		COUNTIES	
	Number Levying Tax	Percent of Tax Revenue for All Cities	Number Levying Tax	Percent of Tax Revenue for All Counties
General property taxes ^a		64.7%		79.3%
Real property	41	45.8	95	56.8
Public service corporations	41	2.6	95	3.2
Personal property	41	13.6	95	16.6
Machinery and tools ^b	41	2.0	94	1.6
Merchants' capital ^b	0	0.0	94	0.2
Non-property taxes ^c		35.3		20.7
Local option sales tax	41	10.5	95	8.4
Consumer utility tax	40	8.2	76	3.7
Business license taxes ^b	41	7.0	41	4.0
Franchise license taxes ^b	40	0.6	70	0.3
Motor vehicle licenses ^b	41	1.5	93	1.6
Bank stock taxes ^b	39	0.5	71	0.2
Taxes on recordation and wills ^b	39	0.4	84	0.7
Tobacco taxes ^b	18	1.2	4	0.1
Admission and amusement taxes ^b	15	0.3	2	0.0
Hotel and motel room tax ^b	36	1.0	39	0.6
Restaurant food taxes ^b	40	4.1	12	0.2
Coal severance taxes ^b	1	0.0	9	0.4
Coal road improvement taxes ^b	1	0.0	7	0.2

NOTE: Details may not add to totals because of small discrepancies between APA totals and detail on transmittal sheets.

SOURCE: John L. Knapp and Tyler J. Fox, Special Analysis of City and County Taxes (prepared for the Joint Legislative Audit and Review Commission), Charlottesville: Center for Public Service (1991), p. 8.

^aThe Auditor of Public Accounts includes penalties and interest on property taxes as general property tax revenue. Penalties and interest accounted for 0.8 percent of tax revenue for both cities and counties.

^bUnpublished revenue data obtained from transmittal forms submitted to Auditor of Public Accounts by cities and counties.

^cNon-property taxes include other local taxes which accounted for 0.2 percent of tax revenue for both cities and counties.

Appendix E

Business, Professional, and Occupational License Revenue as a Percentage of Local Own-Source Revenue FY 1993

BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE REVENUE
AS A PERCENT OF LOCAL OWN-SOURCE REVENUE, FY 1993

LOCALITY	Actual BPOL Tax Revenue, FY 1993	Total Local Revenue, FY 1993	BPOL Revenue in Local Revenue
Alexandria	\$12,118,296	\$222,325,036	5.45%
Bedford	183,821	4,166,352	4.41%
Bristol	830,177	15,709,481	5.28%
Buena Vista	141,067	4,241,605	3.33%
Charlottesville	2,525,218	52,976,518	4.96%
Chesapeake	10,114,197	181,049,616	5.59%
Clifton Forge	129,810	3,016,647	4.30%
Colonial Heights	869,195	18,581,968	4.68%
Covington	406,714	7,509,874	5.42%
Danville	2,229,052	32,948,590	6.77%
Empona	322,450	5,972,784	5.40%
Fairfax	4,028,303	38,588,789	10.44%
Falls Church	1,792,573	22,758,207	7.88%
Franklin	453,251	7,938,751	5.71%
Fredericksburg	1,578,925	28,174,525	5.60%
Galax	551,329	6,545,059	8.30%
Hampton	6,048,896	122,458,481	4.94%
Hamsonburg	2,750,302	28,208,051	9.75%
Hopewell	1,243,255	23,990,764	5.18%
Lexington	270,547	5,671,733	4.77%
Lynchburg	4,552,029	69,689,602	6.53%
Manassas	953,198	42,134,520	2.26%
Manassas Park	222,594	7,535,229	2.92%
Marinsville	875,584	12,771,273	6.86%
Newport News	7,625,277	166,675,812	4.57%
Norfolk	13,534,915	243,704,690	5.55%
Norton	472,058	4,198,833	11.24%
Petersburg	1,542,419	31,154,840	4.95%
Poquoson	151,838	8,826,472	1.72%
Portsmouth	4,189,430	90,063,250	4.65%
Radford	298,428	9,519,610	3.13%
Richmond	19,720,800	295,492,064	6.67%
Roanoke	7,862,367	106,088,843	7.41%
Salem	2,174,139	28,311,673	7.68%
South Boston	349,485	5,098,062	6.86%
Staunton	1,098,189	19,750,563	5.56%
Suffolk	1,647,471	41,263,791	3.99%
Virginia Beach	18,328,978	377,631,880	4.85%
Waynesboro	989,179	18,908,055	5.23%
Williamsburg	1,003,528	16,957,979	5.92%
Winchester	2,087,094	24,460,938	8.53%
TOTAL CITIES	\$138,366,878	\$2,453,270,810	5.64%

BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE REVENUE
AS A PERCENT OF LOCAL OWN-SOURCE REVENUE, FY 1993

LOCALITY	Actual BPOL Tax Revenue, FY 1993	Total Local Revenue, FY 1993	BPOL Revenue in Local Revenue
Accomack	\$160,484	\$17,413,400	0.92%
Albemarle	3,125,559	65,305,259	4.79%
Alleghany	297,751	8,879,398	3.35%
Amelia	60,519	5,212,023	1.16%
Amherst	262,889	12,020,970	2.19%
Appomattox	1,002	5,721,099	0.02%
Arlington	30,171,298	322,136,042	9.37%
Augusta	1,159,369	31,012,036	3.74%
Bath	0	9,973,871	0.00%
Bedford	502	21,648,300	0.0023%
Bland	0	2,230,564	0.00%
Botetourt	418,274	14,498,475	2.88%
Brunswick	500	5,576,693	0.01%
Buchanan	0	24,363,564	0.00%
Buckingham	0	4,657,445	0.00%
Campbell	2,700	19,636,142	0.01%
Caroline	381,297	12,836,173	2.97%
Carroll	0	9,027,905	0.00%
Charles City	0	10,710,232	0.00%
Charlotte	0	4,810,900	0.00%
Chesterfield	11,781,631	226,834,528	5.19%
Clarke	9,025	8,153,803	0.11%
Craig	0	1,693,408	0.00%
Culpeper	0	20,173,118	0.00%
Cumberland	0	3,587,906	0.00%
Dickenson	0	14,554,775	0.00%
Dinwiddie	171,874	11,789,071	1.46%
Essex	0	5,540,945	0.00%
Fairfax	51,064,209	1,467,018,952	3.48%
Fauquier	572,224	51,869,407	1.10%
Floyd	0	5,589,999	0.00%
Flovanna	0	7,596,984	0.00%
Franklin	4,752	18,242,987	0.03%
Frederick	1,196,623	36,920,184	3.24%
Giles	0	7,784,186	0.00%
Gloucester	588,649	20,920,311	2.81%
Goocntland	194,024	9,988,760	1.94%
Grayson	0	5,269,539	0.00%
Greene	96,692	6,805,066	1.42%
Greensville	192,181	5,134,622	3.74%

BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE REVENUE
AS A PERCENT OF LOCAL OWN-SOURCE REVENUE, FY 1993

LOCALITY	Actual BPOL Tax Revenue, FY 1993	Total Local Revenue, FY 1993	BPOL Revenue In Local Revenue
Halifax	\$157,058	\$11,606,263	1.35%
Hanover	250,948	53,721,000	0.47%
Henrico	16,886,170	237,565,861	7.11%
Henry	875,700	26,682,654	3.28%
Highland	0	1,581,908	0.00%
Isle of Wight	328,382	19,312,127	1.70%
James City	2,049,672	44,860,089	4.57%
King & Queen	0	4,841,568	0.00%
King George	341,487	9,899,431	3.45%
King William	0	6,230,550	0.00%
Lancaster	0	7,123,394	0.00%
Lee	0	7,913,679	0.00%
Loudoun	3,765,048	146,025,548	2.58%
Louisa	102,519	20,089,974	0.51%
Lunenburg	0	4,659,117	0.00%
Madison	0	6,030,211	0.00%
Mathews	100,681	4,837,593	2.08%
Mecklenburg	0	9,674,650	0.00%
Middlesex	425	6,121,892	0.0069%
Montgomery	0	31,954,398	0.00%
Nelson	19,173	9,378,326	0.20%
New Kent	248,418	8,329,851	2.98%
Northampton	107	7,738,081	0.0014%
Northumberland	0	6,663,540	0.00%
Nottoway	112,500	5,479,863	2.05%
Orange	0	13,595,654	0.00%
Page	57,612	7,760,767	0.74%
Patrick	0	6,025,224	0.00%
Pittsylvania	117,554	16,973,887	0.69%
Powhatan	37,170	8,193,170	0.45%
Prince Edward	0	6,794,647	0.00%
Prince George	448,974	13,403,620	3.35%
Prince William	5,965,582	299,653,317	1.99%
Pulaski	0	14,910,689	0.00%
Rappahannock	0	5,152,133	0.00%
Richmond	0	3,803,139	0.00%
Roanoke	2,377,444	71,380,781	3.33%
Rockbridge	339,831	12,578,949	2.58%
Rockingham	0	33,164,351	0.00%
Russell	0	11,938,700	0.00%

**BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE REVENUE
AS A PERCENT OF LOCAL OWN-SOURCE REVENUE, FY 1993**

LOCALITY	Actual BPOL Tax Revenue, FY 1993	Total Local Revenue, FY 1993	BPOL Revenue in Local Revenue
Scott	0	\$7,414,944	0.00%
Shenandoah	0	17,521,306	0.00%
Smyrn	0	12,384,758	0.00%
Southampton	\$82,552	9,244,621	0.89%
Spotsylvania	1,340,471	58,047,742	2.31%
Stafford	0	60,855,572	0.00%
Surry	48,118	10,801,839	0.45%
Sussex	129	5,762,172	0.0022%
Tazewell	0	19,035,731	0.00%
Warren	435,069	12,894,554	3.37%
Washington	0	20,407,754	0.00%
Westmoreland	0	8,189,018	0.00%
Wise	0	18,827,101	0.00%
Wythe	0	11,634,177	0.00%
York	1,677,228	37,338,918	4.49%
TOTAL COUNTIES	\$140,080,150	\$4,077,153,125	3.44%
Abingdon	\$653,405	\$3,342,885	19.55%
Altavista	258,693	2,116,913	12.22%
Ashland	314,601	2,132,284	14.75%
Big Stone Gap	166,572	1,852,057	8.99%
Blacksburg	698,449	7,960,616	8.77%
Blackstone	82,685	996,217	8.30%
Bluefield	207,501	1,510,410	13.74%
Bridgewater	115,241	998,789	11.54%
Chincoteague	86,966	1,502,483	5.79%
Christiansburg	392,514	5,151,768	7.62%
Colonial Beach	49,748	2,208,750	2.25%
Culpeper	429,302	3,522,996	12.19%
Dumfries	128,293	1,022,154	12.55%
Farmville	553,890	2,367,215	23.40%
Front Royal	314,168	3,258,010	9.64%
Hemdon	1,365,618	12,165,863	11.22%
Leesburg	778,903	8,690,503	8.96%
Luray	121,855	1,208,071	10.09%
Manon	162,724	2,141,337	7.60%
Pulaski	211,008	3,273,421	6.45%
Richlands	280,667	1,606,593	17.47%
Rocky Mount	200,046	1,573,304	12.72%
Smithfield	105,173	1,344,490	7.82%
South Hill	240,059	2,357,024	10.18%

**BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE REVENUE
AS A PERCENT OF LOCAL OWN-SOURCE REVENUE, FY 1993**

LOCALITY	Actual BPOL Tax Revenue, FY 1993	Total Local Revenue, FY 1993	BPOL Revenue In Local Revenue
Strasburg	\$42,015	\$1,116,145	3.76%
Tazewell	121,823	1,091,954	11.16%
Vienna	1,015,307	8,632,927	11.76%
Vinton	244,475	2,737,531	8.93%
Warrenton	549,893	3,985,723	13.80%
West Point	281,453	3,615,232	7.79%
Wise	220,444	1,551,486	14.21%
Wytheville	395,768	3,407,950	11.61%
TOTAL for 32 TOWNS	\$10,789,259	\$100,443,101	10.74%
AGGREGATE	\$289,236,287	\$6,630,867,036	4.36%

SOURCE: AUDITOR OF PUBLIC ACCOUNTS

NOTE: " ...the revenues and costs associated with joint activities and elements have been allocated to participating localities based on the percentage of contributions made to the entity's operations by each participating local government." (APA FY93, pp. 155)

Total local revenues includes all general government revenues from local sources only, including local option sales tax. It does not include any inter-governmental revenue transfers from the federal or state government.

The percent of aggregate revenues for some localities is non-zero only at four or five decimal places.

This information does not cover all towns in Virginia, since data is available for only 32 towns.

Appendix F

Alternative Approaches to Interlocal Concerns

**ALTERNATIVE APPROACHES
TO
INTERLOCAL CONCERNS**

(incorporates changes through 1994 General Assembly session)

1. Economic Growth Sharing Agreements

In situations involving annexations, boundary changes, and transition from one form of government to another, the Code of Virginia authorizes counties, cities, and towns to enter into agreements whereby the economic growth of an area might be shared. These agreements may include provisions whereby a municipality relinquishes its right to initiate annexation petitions. (Code, §15.1-1167.1)

Examples: City of Charlottesville/Albemarle County-- each jurisdiction annually contributes \$0.37 for each \$100 of their assessed real property values to an economic growth sharing fund. Distribution of the fund to the localities is based on their respective populations and true tax rates. As a condition of this revenue-sharing agreement, the City has agreed to relinquish its authority to annex County territory.

City of Franklin/Isle of Wight County--In exchange for the City's agreement not to annex a specified portion of the County, Isle of Wight County has agreed to share 20% of tax revenues from that area with the City. After 1995, the percentage to be shared is to fluctuate between 17% and 23%, depending upon the relative fiscal condition of the two jurisdictions.

2. Sharing of Constitutional Officers

Any two or more counties and cities may share one or more of the constitutional officers (e.g., sheriff, Commonwealth's attorney) upon approval of the electorate in each jurisdiction by referendum. The question of sharing local constitutional officers can only be placed on the ballot by a petition signed by a number of voters equal to 15% of the votes cast in the last gubernatorial election within the locality. (Code, §15.1-40.2)

3. Sharing of Ministerial and Executive Officers

Any two or more counties may jointly appoint and employ ministerial and executive officers upon approval of such an arrangement by the county governing bodies and, subsequently, by the people in a referendum.. Similarly, counties and towns within such counties may jointly appoint and employ ministerial and executive officers. (Code, §§15.1-53, 15.1-57, and 15.1-62)

4. Joint Exercise of Powers

Any county, city, or town may enter into agreements with any other political subdivision in this State or any other state for the joint exercise of any power, privilege, or authority which it possesses. (Code, §15.1-21)

Example: Economic development--New River Valley Economic Development Alliance and Radford Industrial Center--Radford; Montgomery, Pulaski, Floyd, and Giles Counties; Towns of Blacksburg, Christiansburg, Narrows, Pearisburg, Pulaski, Dublin, and Floyd.

5. Joint Development and Operation of Facilities

Any two or more counties, cities, or towns may by action of their governing bodies enter into such agreements as they deem appropriate for the construction, maintenance, and operation of any capital facility "required or convenient" for the purposes of such local governments. Such facilities may be operated directly by the local governments or by a board or commission or any other entity deemed appropriate. (Code, §§15.1-304 through 15.1-306.)

Example: Jointly-operated landfills--Greensville County/Emporia; Albemarle County/Charlottesville; Frederick County/Winchester

6. Specific Authority for Joint Functional Activities

In addition to the general authorization to enter into interlocal agreements, State law specifically authorizes localities to deliver the following services jointly:

- (a) Jails--Any two or more counties may establish a regional jail or jail farm. (Code, §53.1-105)

Example: Piedmont Regional Jail--Amelia, Buckingham, Cumberland, Lunenburg, Nottoway, and Price Edward Counties.

- (b) Juvenile facilities--Any combination of counties and cities may establish a joint juvenile detention home, group home, or other similar facility. Also, any three or more counties, cities, or towns may establish a commission to operate such facilities. (Code, §§16.1-312, 16.1-313, and 16.1-315)

Example: Regional juvenile detention center--Stafford, Spotsylvania, Caroline, and King George Counties, and the City of Fredericksburg

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Alternative Approach
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- (c) Library system--Any town or more counties or cities may operate a library system. There are at least 24 regional library systems. (Code, §42.1-37)

Example: Pamunkey Regional Library--Goochland, Hanover, and
Stafford Counties
King William County

- (d) Social services board and department--Any combination of counties and cities may have a joint social services board and department. Furthermore, any combination of counties and cities, even though they may have separate boards, may designate a single superintendent of social services. (Code, §§63.1-38, 63.1-38.1, 63.1-44, and 63.1-59)

Examples: Joint social services board and department-- York
County and Poquoson; Joint social services department only--
Stafford County and Staunton.

- (e) Mental health services--Counties and cities may establish joint community services boards for the delivery of mental health, mental retardation, and substance abuse services. (Code, §37.1-194)

7. Joint Planning Commissions

Any two or more counties, cities, or towns may establish joint local planning commissions. The participating localities may determine the membership of such commissions and the apportionment of expenses as they deem appropriate. (Code, §15.1-443)

Example: Appomattox County and the Town of Appomattox

8. Joint Authorities

In addition to agreeing jointly to deliver services, any two or more counties, cities, or towns may jointly establish the authorities or special districts listed below for the provision of services and facilities. All these authorities or districts may be established by action of the local governing bodies, without any further authorization from the state, although some may require a referendum.

- (a) Public service authority--Provision of water, sewer, water and sewer, and garbage and refuse collection and disposal services. (Code, §15.1-1239 et seq.)

Alternative Approaches to Interlocal Concerns

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Example: Upper Occoquan Sewer Authority--Fairfax and Prince William Counties and the City of Manassas Authority (Buchanan, Dickenson, and Lazewell Counties)

- (b) Electric authority--Provision of facilities for the generation and transmission of electric power. (Restricted to localities meeting certain statutory criteria.) (Code, §15.1-1603 et seq.)
- (c) Redevelopment and housing authority--Demolition of unsafe housing in slum areas and provision of decent, safe, and sanitary housing for persons with low incomes. (Code, §36-1 et seq.)

Examples: Accomack-Northampton Housing and Development Corp.; Cumberland Plateau Regional Housing

- (d) Transportation district--Preparation of transportation plans and provision of transit facilities. (Code, §15.1-1342 et seq.)

Examples: Accomack-Northampton Transportation District; Potomac and Rappahannock District (Prince William and Stafford Counties, and Manassas, Manassas Park, and Fredericksburg.)

Note: The General Assembly has levied an additional 2% tax on gas sold within the counties and cities which are members of the Potomac and Rappahannock Transportation District and of the Northern Virginia Transportation Commission (established by special action.) The revenues from this tax are to be used for any transportation purpose for the former organization and for the operating deficit and debt service of the mass transit system of the latter. (Code, §58.1-1718 et seq.)

- (e) Local transportation improvement district--Construction, expansion, improvement, and operation of transportation improvements in the district. (Code, §33.1-409 et seq.)

Example: Route 28 Improvement District (Fairfax and Loudoun Counties.)

- (f) Airport authority--Acquisition, operation, and maintenance of airport facilities. (Code, §5.1-35 and 5.1-36)

Examples: New River Valley Airport Commission (Montgomery, Pulaski, and Giles Counties; Towns of Pulaski, Pearisburg, and Christiansburg); Roanoke Regional Airport Commission (Roanoke County and Roanoke City)

- (g) Industrial development authority--Promotion and development of industry and trade (Code, §15.1-1373 et seq.)

Example: Industrial Development Authority of the City of Covington and the County of Alleghany

- (h) Produce market authority--Construction and operation of facilities for farmers and others to sell fresh farm produce to the public. (Code, §3.1-47 et seq.)

- (i) Public recreational facilities authority--Acquisition, operation, and maintenance of recreational facilities such as coliseums, sports facilities, amusement parks, and zoos. (Code, §15.1-1271 et seq.)

Examples: Hampton Roads Sports Authority--operation of coliseum (Newport News, Hampton); Smyth-Grayson Kunnarode Authority--operation of community center (Smyth and Grayson Counties)

- (j) Park authority--Acquisition, operation and maintenance of parks and recreation areas. (Code, §15.1-1228 et seq.)

Example: Fredericksburg-Stafford Regional Park Authority

- (k) Hospital or health center commission--Construction and operation of hospital, health center, or other similar facility. (Code, §15.1-1514)

Example: Northern Virginia Health Center Commission (Cities of Alexandria, Manassas, Manassas Park, Fairfax, and Falls Church; Counties of Fairfax, Loudoun, and Prince William; and Towns of Herndon and Vienna)

- (l) Mosquito control district--Control and elimination of mosquitoes. (Code, §32.1-187)

- (m) Sanitation district-tidal waters--Protection of tidal waters, public health, and natural oyster beds from pollution through construction and operation of sewage disposal facilities. (Code, §21-141 et seq.)
- (n) Sanitation district-nontidal waters--Protection of nontidal waters, public health, and natural oyster beds from pollution through construction and operation of sewage disposal facilities. (Code, §21-224 et seq.)
- (o) Jail authority--Construction and operation of a jail. (Code, §53.1-95.2 et seq.)

Example: Riverside Regional Jail Authority (Cities of Petersburg, Hopewell, and Colonial Heights and Counties of Charles City, Chesterfield, Prince George, and Surry)
- (p) Regional criminal justice training academy--Establishment and conduction of training for public law-enforcement and correctional officers. (Code, §15.1-159.7:1 et seq.)
- (q) Regional juvenile detention commission--Establishment and operation of residential facility for juveniles. (Code, §16.1-315 et seq.)

8. Special Legislation for Authorities and Districts

In some instances, the general statutory authorization cited in the previous section either did not meet the needs of localities seeking to establish regional special purpose districts/authorities or did not exist at the time. In such cases, the General Assembly enacted special legislation authorizing the establishment of mechanism to effect the regional provision of a service.

Examples: Hampton Roads Sanitation District--Collection and treatment of sewage. (Ch. 334, 1938 Acts of Assembly.) (Cities of Portsmouth, Virginia Beach, Norfolk, Chesapeake, Suffolk, Poquoson, Hampton, Newport News, and Williamsburg and the Counties of James City, York, and Isle of Wight.)

Southeastern Public Service Authority of Virginia--Collection and disposal of solid waste, including construction and operation of waste-to-energy facilities. (Ch. 554, 1977 Acts of Assembly.) (Cities of Suffolk, Chesapeake, Portsmouth, Virginia Beach.

Alternative Approaches to Interlocal Concerns

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Norfolk, and Franklin, and the Counties of Southampton and Isle of Wight.)

Richmond Metropolitan Authority--Construction and operation of toll roads and parking facilities; construction and operation of minor league baseball facility. (Ch. 178, 1986 Acts of Assembly.) (City of Richmond and the Counties of Henrico, Chesterfield, and Hanover.)

Northern Virginia Transportation Commission--Preparation of plans for transportation facilities; operation of transit system. (Ch. 630, 1964 Acts of Assembly.) (Fairfax and Arlington Counties and the Cities of Alexandria, Fairfax, and Falls Church.)

Virginia Coalfield Economic Development Authority--Provision of financial support for a wide range of activities designed to enhance the economic base of the region. (Code, §15.1-1635 et seq.) (Lee, Wise, Scott, Buchanan, Russell, Tazewell, and Dickenson Counties, and the City of Norton.)

9. Joint Schools, School Facilities, and Superintendents

Virginia law vests in the State Board of Education the establishment of school division lines. However, the division lines that existed on July 1, 1978 are currently recognized by law as establishing the school divisions of the State, and no division may be divided or combined with another without the consent of the localities involved. Since that date, the State Board has consented to the consolidation of several school divisions. (Code, §22.1-25)

Example: The City of Clifton Forge and Alleghany County consolidated their schools systems in 1983.

Moreover, within the framework of the existing divisions, any two or more school boards may, with the consent of the State Board of Education, enter into one or more of the cooperative arrangements listed below:

- (a) Joint schools--School boards may establish jointly owned and operated schools. (Code, §22.1-26)

Examples: Joint junior and senior high schools--City of South Boston and Halifax County

Joint technical/vocational school--Orange, Culpeper, Rappahannock, and Madison Counties
Joint special education program--City of Norton and Wise County

- (b) **Contracting**--A school board may contract with the school board of an adjacent school division for the use of its school facilities. (Code, §22.1-27)
- (c) **Joint superintendent**--Any two or more school divisions may appoint the same person as division superintendent. (Code, §22.1-62)
Example: The City of South Boston and Halifax County maintain separate school boards but jointly employ one superintendent and central staff.

10. Provision of Services by Planning District Commission

In 1968 the General assembly enacted the Virginia Area Development Act (VADA), which resulted in the division of the State into 22 planning districts. The activities of each planning district are directed by a planning district commission (PDC) comprised of representatives of the localities geographically located therein. One of the principal legislative purposes for enactment of the VADA was to encourage "the creation of effective regional planning agencies." Initially, the PDC's were not granted the authority to operate programs for the provision of services to member jurisdictions. In 1986, the VADA was amended to permit any PDC to do upon the request of any member jurisdiction, and, in 1991, the Cumberland Plateau PDC was authorized to undertake public works activities. PDC's may not, however, operate programs or provide services within any jurisdiction which opposes such an action. (Code, §15.1-1404)

11. Service Districts

The Code of Virginia permits any two or more localities within a planning district, if such localities constitute a majority of the localities represented on the planning district commission and if such localities contain a majority of the population within the planning district, to develop a plan for a service district. Service district plans must be submitted to the voters in the participating localities for approval.

A service district is a distinct political entity which is authorized to construct such facilities and to undertake such activities as

may be provided in the service district plan. Service districts shall be governed by a service district commission, of which at least a majority of the membership shall be elected from single member election districts. Other members of the commission shall be members of the governing bodies of the participating localities. Service district commissions may borrow money, acquire property, and make and enforce all ordinances for the purpose of carrying out their delegated authority. A commission may also make annual assessments upon the localities comprising the service district not to exceed limits established in the plan. No city or town within a service district can initiate annexations without the approval of the governing body of the county affected thereby and without the approval of the service district commission. To date, no service district has been formed. (Code, Article 3, Chapter 34, Title 15.1)

12. CONSOLIDATION OF LOCAL GOVERNMENTS

Chapter 26 of Title 15.1 contains several articles dealing with the consolidation of governmental units. Article 1 concerns county-county consolidations, Article 2 concerns town-town consolidations, Article 3 concerns city-city consolidations, and Article 4 concerns the consolidation of any combination of counties, cities, and towns. The latter article has provided the legal basis for most consolidation efforts in Virginia. The following paragraphs summarize the major features of Article 4:

- (a) Scope of the Article. Article 4 authorizes any combination of counties and cities to consolidate into a single city, or a single county. Further, the article allows a county to consolidate with all of its towns into a consolidated county or city. (Code, Sec. 15.1-1130.1)
- (b) Initiation of Proceedings. (1) The governing bodies of localities may initiate consolidation proceedings by developing consolidation agreements which must cover certain specified points relative to the proposed consolidation. The original copy of the consolidation agreement and a petition, signed by the chief elected official and the clerk of each local governing body which is party to the agreement, requesting a referendum on the proposed consolidation must be filed with a circuit court having jurisdiction in the area. (2) If the governing body of a locality fails to take the initiative in developing a consolidation agreement, the qualified voters of such locality may file a petition with the local governing body asking it to develop a consolidation agreement with other localities named in the

petition and requesting it to petition the court for a referendum on the question of consolidation. A copy of the voters' petition to the local governing body is concurrently filed with the circuit court. The voters' petition must be signed by a number of voters equal to 10% of the votes cast in the last preceding presidential election within such locality. If the local governing body fails to develop a consolidation agreement within one year, the judge of the circuit court shall appoint a committee of five citizens of the locality to act in lieu of the governing body in developing such agreement and in petitioning the court for a referendum on the issue of the proposed consolidation. (Code, Secs. 15.1-1131, 1132)

- (c) Referendum Requirements. In order for a consolidation to be effected, it must be approved in separate referenda in each locality which is party to the consolidation agreement. If a county proposes to consolidate with another county or city, the towns within such county need not be accorded a separate vote. If a county proposes to consolidate with its towns into a consolidated county or city, such a consolidation requires approval by separate referenda in each town and in the county. (Code, Secs. 15.1-1138, 1145)
- (d) Option for Consolidation as County or City. A consolidation agreement may include a provision leaving to the voters the question as to whether the resulting consolidated entity shall be a county or a city. This question shall be voted on at the same time as the question of consolidation. (Code, Sec. 15.1-1139)
- (e) Effect of Consolidation on Towns. Towns located within a county proposing to consolidate with another county or city into a consolidated county may continue as towns within the new consolidated county. Any town located within a county proposing to consolidate with another county or city into a consolidated city may continue to exist as a township within the consolidated city, in which case the charter of the former town shall become the charter of the township. Townships, however, are prohibited from annexing and from becoming cities. (Code, Sec. 15.1-1133, 1146.1)
- (f) Limitation on Authority to Consolidate as a City. In any instance where localities propose to consolidate as a city under Article 4, such proposed consolidation must be reviewed by the Commission on Local Government and by a special three-judge court before the issue may be submitted to the electorate for approval. The court is required to review the proposed

consolidated city to determine (1) whether the resulting entity will have the requisite population and population density (20,000 and 300/square mile, or 50,000 and 140/square mile; i. e., the same criteria for county immunity and county transition to city status), (2) whether the proposed consolidated city has the fiscal capacity to function as an independent city, and (3) whether the proposed consolidation is in the best interests of the parties and the State. If the proposed consolidated city will include an existent city, the population and population density requirements are waived. No proposed consolidated city may be established unless the court finds that the applicable statutory standards are met. The court may not impose terms and conditions on a proposed consolidation, but merely approve or deny the consolidation as proposed. (Code, Sec. 15.1-1130.8)

- (g) Optional Provisions in Consolidation Agreements. In order to facilitate the consolidation of diverse localities the following provisions are among those which may be included in consolidation plans:
- (1) That the tax rate on real property may vary throughout the consolidated entity in recognition of varying service needs;
 - (2) That a special tax may be levied on real property within a portion of the consolidated entity for a period up to 20 years for the repayment of debt incurred for such area prior to consolidation;
 - (3) That former counties and cities within the consolidated entity might be named boroughs or shires; these borough or shires might coincide with the special tax or debt districts.
 - (4) That if the agreement calls for the creation of a consolidated city, it may include, subject to subsequent approval by the General Assembly, any provision of the charter of any of the cities which are parties to the consolidation agreement; and
 - (5) That if the agreement calls for the creation of a consolidated county, it may include any provision from the charter of any of the municipalities which are parties to the consolidation agreement and any provision of any of the optional forms of county government allowed by law. (Code, Sec. 15.1-1135)

Examples: The last consolidation of local governments effected in Virginia was that between the Cities of Suffolk and Nansemond in 1974.

13. PARTIAL CONSOLIDATION

In addition to a complete consolidation, State law affords counties and cities the option of a partial consolidation. Under such an alternative, the municipality would become a "tier-city," having all the powers, duties, and responsibilities of a town, augmented by whatever additional powers and service-delivery responsibilities are granted the tier-city in the consolidation plan developed with the affected county. Partial consolidations are subject to approval by referendum in each jurisdiction which is a party to the agreement. (Code, Secs. 1-13.28:1, 15.1-1146.1:1)

Example: The City of Staunton and Augusta County developed a plan of partial consolidation which would have transformed the City of Staunton into a tier-city within the County, but the plan was rejected by the electorate of Staunton in 1984.

14. REVERSION TO TOWN STATUS

Any city with a population of less than 50,000 may change its status to that of a town. This action may be initiated either by the city council or by a petition signed by 15% of the registered voters of the city. In either case, the proposed action must be reviewed by the Commission on Local Government and by a special three-judge court. If the court finds that the change in status would be in the best interest of the city, county, Commonwealth, and the people of the county and city, it shall grant the petition. In doing so, the court may impose appropriate terms and conditions (Code, Sec. 15.1-965.9 et seq.)

15. REGIONAL GOVERNMENTS

While there are no provisions presently in the Code of Virginia which provide for the establishment of regional governments, the State's Constitution authorizes their creation. Article VII, Section 2 of the Constitution states that the General Assembly may provide for regional governments by general law or special act. The Constitution states that no regional governments may be established without approval by the voters in each county or city, or part thereof proposed for inclusion in the regional government. Thus, the General Assembly could set forth by general law a form of regional government that could be adopted by localities; or localities could

develop a regional government tailored to their particular needs and request the General Assembly to authorize such by special act. In 1990, the General Assembly did authorize the creation of the Roanoke "regional" government to serve the City of Roanoke and Roanoke County. However, the establishment of the regional government was defeated in the required referendum.
(Constitution, Article VII, Sec. 2)

Staff, Commission on Local Government
Commonwealth of Virginia
August 1994

Appendix G

Estimates of Certain Revenue-Raising Alternatives

**Projected Revenue From Increasing the Sales Tax Rate
FY 1995 - FY 1997
(In Millions)**

Revenue Impact From Increasing the Sales Tax Rate from 4.5% to 5%

<u>Fiscal Year</u>	<u>Revenue Gain</u>
1995	\$262.37
1996	\$277.63
1997	\$287.22

Revenue Impact From Increasing the Sales Tax Rate From 4.5% to 5.5%

<u>Fiscal Year</u>	<u>Revenue Gain</u>
1995	\$524.74
1996	\$555.26
1997	\$574.44

These estimates are based on a level of General Fund revenue collections consistent with the Department of Taxation's forecast for November 1994. Fiscal year 1995 estimates represent a full fiscal year; however, if legislation were passed to increase the sales tax rate, the first fiscal year's collections would be for an 11 month period due to a one month lag in collections.

**Projected Revenue From Removing Service Exemptions
From Sales Tax Rate at 4.5%
FY 1995 - FY 1996
(In Millions)**

<u>Fiscal Year</u>	<u>Revenue Gain</u>
1995	\$988.80
1996	\$1,022.42

The revenue estimates listed above are based on the 1992 Virginia Sales and Use Tax Expenditure Study. The revenue impacts of the various service exemptions were adjusted for inflation and real growth. Fiscal year 1995 estimates represent a full fiscal year; however, if legislation were passed to increase the sales tax rate, the first fiscal year's collections would be for an 11 month period due to a one month lag in collections.

Individual Income Tax Rate Increase Options
Revenue Increase
(Millions)

Fiscal Year	Increase Top Rate to 6%	Increase Top Rate to 6.25%	Increase Top Rate to 6.75%
1994	\$52.2	\$104.4	\$208.7
1995	\$108.0	\$216.0	\$431.9
1996	\$115.0	\$230.0	\$459.9
1997	\$123.8	\$247.6	\$495.2

Fiscal Year	Increase Top Two Tax Rates to 5.25% and 6.00%	Increase Top Two Tax Rates to 5.50% and 6.25%	Increase Top Two Tax Rates to 6.00% and 6.75%
1994	\$85.0	\$169.9	\$339.9
1995	\$173.4	\$346.6	\$693.5
1996	\$180.0	\$359.9	\$719.9
1997	\$189.6	\$379.2	\$758.4

Tax increase is effective January 1, 1994. The figures assume that withholding tables are adjusted January 1, 1994, and that taxpayers making estimated payments begin remitting tax in accord with the new rates in early calendar year 1995.

Appendix H

House Joint Resolution No. 487 (1995)

HOUSE JOINT RESOLUTION NO. 487

Establishing the Commission on State and Local Government Responsibility and Taxing Authority.

Agreed to by the House of Delegates, February 23, 1995

Agreed to by the Senate, February 21, 1995

WHEREAS, the state and local tax system in the Commonwealth as in all states has developed and grown over a number of years; and

WHEREAS, the economy and demographics of Virginia have changed significantly in recent years and these changes are projected to accelerate, resulting in changing service demands upon state and local governments; and

WHEREAS, fiscal soundness and the provision of quality state and local government services are essential to Virginia's economic growth and prosperity; and

WHEREAS, many taxes, regulations, and laws governing commerce in Virginia which were framed for an agricultural society and adapted to an industrial economy have not been adequately adapted to the realities of a post-industrial, information economy; and

WHEREAS, because the different sections of the tax code have been added at varying times, the impact each has on the other and on the taxpayers could not always be anticipated; and

WHEREAS, service responsibility and taxing authority of local government has evolved over the years in a piecemeal approach as responsibility for the delivery of services moves back and forth between the Commonwealth and its political subdivisions; and

WHEREAS, locally integrated and regional service delivery has proven to afford economies; and

WHEREAS, the federal government has mandated that state and local governments provide services that meet federally established standards; and

WHEREAS, the service demands on the state and its local governments have caused major fiscal pressures on tax and fee sources and rates resulting in governmental downsizing, prioritizing, and privatization of services; and

WHEREAS, the allocation of tax and fee authority between state and local governments should be examined periodically to ensure the efficacy and efficiency of that authority; and

WHEREAS, local and state taxes are major factors when businesses make decisions to expand, locate, and relocate in Virginia; and

WHEREAS, some state and local taxes have been criticized by citizens and businesses as being inequitable and adversely impacting state and local economies and impeding business growth; and

WHEREAS, the equity of the entire tax system in the Commonwealth has not been evaluated in depth; and

WHEREAS, the administration of all taxes needs to be examined in order to achieve uniformity as well as fair and equitable collection, audit, and appeals procedures; and

WHEREAS, JLARC examined the allocation of service responsibility between state and local governments and identified broad options for realignment of selected service responsibilities; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Commission on State and Local Government Responsibility and Taxing Authority be established. The Commission shall be composed of twenty-five members to be appointed as follows: the Speaker, the majority leader, and the minority leader of the House of Delegates; the Lieutenant Governor, President pro tempore, the majority leader, and the minority leader of the Senate; the Attorney General of Virginia; and seventeen citizens of whom three shall be appointed by the Speaker of the House, two shall be appointed by the Senate Committee on Privileges and Elections, and three shall be appointed by the Governor; four representatives of the Virginia Chamber of Commerce, upon its recommendation, to be appointed by the Speaker of the House; one representative of the Virginia Association of Commissioners of the Revenue, and two representatives each of the Virginia Municipal League and the Virginia Association of Counties, upon the recommendation of the respective organizations, to be appointed by the Senate Committee on Privileges and Elections.

Consideration shall be given to appointing citizens and organizational representatives in such a manner as to provide geographical and demographic representation. The Commission shall choose its chairman and vice-chairman from the membership of the Commission.

The Commission is requested to examine and make recommendations concerning the following: (i) the service responsibilities of local, regional, and state governments, giving consideration to the appropriate role of government at all levels and what distribution of service responsibility provides the greatest efficiency and best serves Virginia citizens; (ii) revenue resources such as taxes, fees, and debt structures available to government to support their respective responsibilities and minimize burdens on taxpayers, which are appropriate to current and emerging economic, governmental, and social realities; (iii) a timetable and framework for implementing changes in service responsibilities and revenue resources; (iv) uniform and equitable administrative procedures for local and regional taxes which shall include, but not be limited to, audits and reviews, collection practices, taxpayer litigation, communications with taxpayers, and the feasibility of the codification of a uniform ordinance; (v) the identification and examination of all taxes and fees; (vi) the equity of each such tax and fee assessed, including the most efficient and least burdensome of such taxes and fees; (vii) the changes needed in the tax structure relative to Virginia's changing economy; and (viii) possible alternatives for the replacement or consolidation of taxes and fees.

The Weldon Cooper Center for Public Service at the University of Virginia and the Division of Legislative Services shall provide staff support for the study. Technical assistance shall be provided by the Department of Taxation and the State Corporation Commission. All agencies of the Commonwealth shall provide assistance to the Commission, upon request.

The direct costs of the study shall not exceed \$50,000.

The Governor and all entities requested to make appointments or to recommend persons to be appointed to the Commission are requested to submit such appointments and recommendations expeditiously so that the Commission may begin its work by April 1, 1995.

The Commission shall complete its work and submit its findings and recommendations to the Governor and the General Assembly by December 1, 1995, as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

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