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HOUSE BILL NO. 2776

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations
on February 4, 2001)

(Patron Prior to Substitute—Delegate Dillard)

A *BILL to amend and reenact §§ 33.1-221.1:3, 58.1-603, 58.1-604, 58.1-611.1, 58.1-614, 58.1-627, 58.1-628, 58.1-638, and 58.1-815.1 of the Code of Virginia; and to amend and reenact § 2 of Chapter 391 of the Acts of Assembly of 1993, as amended by Chapters 470 and 597 of the Acts of Assembly of 1994, Chapters 740 and 761 of the Acts of Assembly of 1998, and Chapter 538 of the Acts of Assembly of 1999, relating to additional state sales and use tax in certain localities and dedicating one-half of the revenues from such tax for educational capital projects and the remaining one-half of such revenues to increase the principal amount of bonds authorized to be issued for transportation projects in the Northern Virginia Transportation District Program to \$2,771,000,000 and designating additional transportation projects to be funded through such Program.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-221.1:3, 58.1-603, 58.1-604, 58.1-611.1, 58.1-614, 58.1-627, 58.1-628, 58.1-638, and 58.1-815.1 of the Code of Virginia are amended and reenacted as follows:

§ 33.1-221.1:3. Northern Virginia Transportation District Program.

A. The General Assembly declares it to be in the public interest that the economic development needs and economic growth potential of Northern Virginia be addressed by a special transportation program to provide for the costs of providing an adequate, modern, safe and efficient transportation network in Northern Virginia which shall be known as the Northern Virginia Transportation District Program (the Program), including, without limitation, environmental and engineering studies, rights-of-way acquisition, construction, improvements to all modes of transportation, and financing costs. The Program consists of the following projects: the Fairfax County Parkway, Route 234 Bypass, *and Dulles Connector*, Metro Capital Improvements, including the Franconia-Springfield Metrorail Station and new rail car purchases, Route 7 improvements in Loudoun County and Fairfax County, the Route 50/Courthouse Road interchange improvements in Arlington County, the Route 28/Route 625 interchange improvements in Loudoun County, Metrorail capital improvements attributable to the City of Alexandria including the King Street Metrorail Station access, Metrorail capital improvements attributable to Arlington County, including Ballston Station improvements, Route 15 safety improvements in Loudoun County, Route 1/Route 123 interchange improvements in Prince William County, Lee Highway improvements in the City of Fairfax, Route 123 improvements in Fairfax County, Telegraph Road improvements in Fairfax County, Route 1/Route 234 interchange improvements in Prince William County, Potomac-Rappahannock Transportation Commission bus replacement program, ~~and Dulles Corridor Enhanced Transit program~~ *Program, I-66 improvements and rail extension, I-95 improvements and rail extension, Route One improvements, new eastern Potomac River crossing, I-495 improvements and transit improvements, Fairfax Parkway, Tri-County/Loudoun Parkway, Route 234 Bypass extended, Metrorail new railcar purchase and station enhancements, urban system improvements, secondary system improvements, Route 7 Loudoun and Fairfax, Columbia Pike/Route 7 Transit, Fairfax CUE purchase/facilities, and VRE new railcar.*

B. Allocations to this Program from the Northern Virginia Transportation District Fund established by § 58.1-815.1 shall be made annually by the Commonwealth Transportation Board for the creation and enhancement of a safe, efficient transportation system connecting the communities, businesses, places of employment, and residences of the Commonwealth, thereby enhancing the economic development potential, employment opportunities, mobility and quality of life in Virginia.

C. Except in the event that the Northern Virginia Transportation District Fund is insufficient to pay for the costs of the Program, allocations to the Program shall not diminish or replace allocations made from other sources or diminish allocations to which any district, system, or locality would be entitled under other provisions of this title, but shall be supplemental to other allocations to the end that transportation improvements in the Northern Virginia Transportation District may be accelerated and augmented. Allocations under this subsection shall be limited to projects specified in *subdivision (2) (s) of § 33.1-268* ~~(2) (s)~~.

D. The Commonwealth Transportation Board may expend such funds from all sources as may be lawfully available to initiate the Program and to support bonds and other obligations referenced in subsection E of this section.

E. The Commonwealth Transportation Board is authorized to receive, dedicate or use first from (i) revenues received from the Northern Virginia Transportation District Fund, (ii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the

60 highway construction district in which the project or projects to be financed are located or to the city or
61 county in which the project or projects to be financed are located, (iii) to the extent required, legally
62 available revenues of the Transportation Trust Fund, and (iv) such other funds which may be
63 appropriated by the General Assembly for the payment of bonds or other obligations, including interest
64 thereon, issued in furtherance of the Program. No such bond or other obligations shall pledge the full
65 faith and credit of the Commonwealth.

66 § 58.1-603. Imposition of sales tax.

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

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

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

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

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

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

83 B. *An additional sales tax of one-half percent is hereby levied and imposed in: all counties having a*
84 *population of more than 800,000, as determined by the 1990 U. S. Census, all counties and cities*
85 *adjacent thereto, and all cities contiguous to such adjacent counties and cities. All revenues collected*
86 *pursuant to this subsection shall be distributed and used as set forth in subdivision G 1 of § 58.1-638.*

87 C. *An additional sales tax of one-half percent is hereby levied and imposed in: all counties having a*
88 *population of more than 800,000, as determined by the 1990 U. S. Census, all counties and cities*
89 *adjacent thereto, and all cities contiguous to such adjacent counties and cities. All revenues collected*
90 *pursuant to this subsection shall be distributed and used as set forth in subdivision G 2 of § 58.1-638.*

91 § 58.1-604. Imposition of use tax.

92 A. There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a
93 tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of
94 such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount
95 of three and one-half percent:

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

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

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

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

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

116 B. *An additional use tax of one-half percent is hereby levied and imposed in: all counties having a*
117 *population of more than 800,000, as determined by the 1990 U. S. Census, all counties and cities*
118 *adjacent thereto, and all cities contiguous to such adjacent counties and cities. All revenues collected*
119 *pursuant to this subsection shall be distributed and used as set forth in subdivision G 1 of § 58.1-638.*

120 C. *An additional use tax of one-half percent is hereby levied and imposed in: all counties having a*
121 *population of more than 800,000, as determined by the 1990 U. S. Census, all counties and cities*

adjacent thereto, and all cities contiguous to such adjacent counties and cities. All revenues collected pursuant to this subsection shall be distributed and used as set forth in subdivision G 2 of § 58.1-638.

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

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

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

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

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

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

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

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

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

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

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

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

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

G. The tax imposed by subsections B and C of § 58.1-603 and by subsections B and C of § 58.1-604 shall not apply to food purchased for human consumption.

§ 58.1-614. Vending machine sales.

A. Notwithstanding the provisions of §§ 58.1-603 and 58.1-604, whenever a dealer makes sales of

183 tangible personal property through vending machines, or in any other manner making collection of the
 184 tax impractical, as determined by the Tax Commissioner, such dealer shall be required to report his
 185 wholesale purchases for sale at retail from vending machines and shall be required to remit an amount
 186 based on four and one-half percent of such wholesale purchases, *or such higher amount as may be*
 187 *imposed within the localities set forth in subsections B and C of § 58.1-603.*

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

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

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

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

204 § 58.1-627. Bracket system for tax at rate of three and one-half percent.

205 The following brackets of prices shall be used for the collection of the tax imposed by this chapter,
 206 *except for the tax imposed pursuant to subsections B and C of § 58.1-603 or pursuant to subsections B*
 207 *and C of § 58.1-604:*

208	\$0.00	to	\$0.14	no	tax
209	.15	to	.42	1»	tax
210	.43	to	.71	2»	tax
211	.72	to	.99	3»	tax
212	1.00	to	1.28	4»	tax
213	1.29	to	1.57	5»	tax
214	1.58	to	1.85	6»	tax
215	1.86	to	2.14	7»	tax
216	2.15	to	2.42	8»	tax
217	2.43	to	2.71	9»	tax
218	2.72	to	2.99	10»	tax
219	3.00	to	3.28	11»	tax
220	3.29	to	3.57	12»	tax
221	3.58	to	3.85	13»	tax
222	3.86	to	4.14	14»	tax
223	4.15	to	4.42	15»	tax
224	4.43	to	4.71	16»	tax
225	4.72	to	5.00	17»	tax

226
 227 *Except in the localities set forth in subsections B and C of § 58.1-603, ~~On~~ on transactions over five*
 228 *dollars, the tax shall be computed at three and one-half percent, one-half cent or more being treated as*
 229 *one cent. In the localities set forth in subsections B and C of § 58.1-603, on transactions over five*
 230 *dollars, the tax shall be computed at such higher amount as required by such subsections.* If a dealer
 231 can show to the satisfaction of the Tax Commissioner that more than eighty-five percent of the total
 232 dollar volume of his gross taxable sales during the taxable month was from individual sales at prices of
 233 ten cents or less each, and that he was unable to adjust his prices in such manner as to prevent the
 234 economic incidence of the sales tax from falling on him, the Tax Commissioner shall determine the
 235 proper tax liability of the dealer based on that portion of the dealer's gross taxable sales which was from
 236 sales at prices of eleven cents or more.

237 § 58.1-628. Bracket system for combined state and local tax.

238 The following brackets of prices shall be used for the collection of the combined state and local tax,
 239 *except for the tax imposed pursuant to subsections B and C of § 58.1-603 or pursuant to subsections B*
 240 *and C of § 58.1-604:*

241	\$0.00	to	\$0.11	no	tax
242	.12	to	.33	1»	tax

243	.34	to	.55	2»	tax
244	.56	to	.77	3»	tax
245	.78	to	.99	4»	tax
246	1.00	to	1.22	5»	tax
247	1.23	to	1.44	6»	tax
248	1.45	to	1.66	7»	tax
249	1.67	to	1.88	8»	tax
250	1.89	to	2.11	9»	tax
251	2.12	to	2.33	10»	tax
252	2.34	to	2.55	11»	tax
253	2.56	to	2.77	12»	tax
254	2.78	to	2.99	13»	tax
255	3.00	to	3.22	14»	tax
256	3.23	to	3.44	15»	tax
257	3.45	to	3.66	16»	tax
258	3.67	to	3.88	17»	tax
259	3.89	to	4.11	18»	tax
260	4.12	to	4.33	19»	tax
261	4.34	to	4.55	20»	tax
262	4.56	to	4.77	21»	tax
263	4.78	to	5.00	22»	tax

265 *Except in the localities set forth in subsections B and C of § 58.1-603, on transactions over five*
266 *dollars, the tax shall be computed at four and one-half percent, one half cent or more being treated as*
267 *one cent. In the localities set forth in subsections B and C of § 58.1-603, on transactions over five*
268 *dollars, the tax shall be computed at such higher rate as required by such subsections, one-half cent or*
269 *more being treated as one cent.* The foregoing bracket system shall not relieve the dealer from the duty
270 and liability to remit an amount equal to four and one-half percent of his gross taxable sales as provided
271 in this chapter. If the dealer, however, can show to the satisfaction of the Tax Commissioner that more
272 than eighty-five percent of the total dollar volume of his gross taxable sales during the taxable month
273 was from individual sales at prices of ten cents or less each and that he was unable to adjust his prices
274 in such manner as to prevent the economic incidence of the sales tax from falling on him, the Tax
275 Commissioner shall determine the proper tax liability of the dealer based on that portion of the dealer's
276 gross taxable sales which was from sales at prices of eleven cents or more.

277 § 58.1-638. Disposition of state sales and use tax revenue; Transportation Trust Fund; localities'
278 share; Game Protection Fund.

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

281 1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted
282 by the 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided
283 in this section, to the Transportation Trust Fund as defined in § 33.1-23.03:1. Of the funds paid to the
284 Transportation Trust Fund, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port
285 Fund as provided in this section; an aggregate of 2.4 percent shall be set aside as the Commonwealth
286 Airport Fund as provided in this section; and an aggregate of 14.5 percent in fiscal year 1998-1999 and
287 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass
288 Transit Fund as provided in this section. The Fund's share of such net revenue shall be computed as an
289 estimate of the net revenue to be received into the state treasury each month, and such estimated
290 payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall
291 be made to the Fund on the last day of each month.

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

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

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

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

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

Any new funds in excess of \$12.1 million which are available for allocation by the Virginia Aviation Board from the Commonwealth Transportation Fund, shall be allocated as follows: sixty percent to MWAA, up to a maximum annual amount of two million dollars, and forty percent to air carrier airports as provided in subdivision A 3 a. Except for adjustments due to changes in enplaned passengers, no air carrier airport sponsor, excluding MWAA, shall receive less funds identified under subdivision A 3 a than it received in fiscal year 1994-1995.

Of the remaining amount:

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

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

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

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

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

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

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

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

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

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

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

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

(c) To finance up to ninety-five percent of the cost of the development and implementation of any

other project designated by the Board where the purpose of such project is to enhance the provision and use of public transportation services.

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

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

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

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

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

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

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

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

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

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

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

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

D. The net revenue so distributable among the counties and cities shall be apportioned and distributed upon the basis as certified to the Comptroller by the Department of Education, of the number

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

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

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

G. 1. The sales and use tax revenue generated pursuant to subsection B of § 58.1-603 and subsection B of § 58.1-604 effective January 1, 2002, shall be distributed as follows: (i) the revenue generated in each locality shall be distributed to each such locality according to the same procedure as set forth in subsection E of § 58.1-605 and used solely within such locality for public school construction, additions, renovations, including retrofitting and enlarging school buildings, infrastructure, including technology infrastructure, site acquisition for public school buildings and facilities, and debt service payments for any such projects.

2. The sales and use tax revenue generated pursuant to subsection C of § 58.1-603 and subsection C of § 58.1-604 effective January 1, 2002, shall be deposited into the Northern Virginia Transportation District Fund pursuant to § 58.1-815.1 and used solely for transportation purposes as provided in § 58.1-815.1.

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

§ 58.1-815.1. Northern Virginia Transportation District Fund.

A. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be a part of the Transportation Trust Fund and which shall be known as the Northern Virginia Transportation District Fund, consisting of transfers pursuant to § 58.1-816 of annual collections of the state recordation taxes attributable to the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park and the Counties of Arlington, Fairfax, Loudoun, and Prince William; however, this dedication shall not affect the local recordation taxes under §§ 58.1-802 B and 58.1-814. *The Fund shall also consist of transfers pursuant to subdivision G 2 of § 58.1-638 of revenues from sales and use taxes imposed pursuant to subsection C of § 58.1-603 and subsection C of § 58.1-604.* The Fund shall also include any public rights-of-way use fees appropriated by the General Assembly; any state or local revenues, including but not limited to, any funds distributed pursuant to §§ 33.1-23.3, 33.1-23.4 or § 33.1-23.5:1, which may be deposited into the Fund pursuant to a contract between a jurisdiction participating in the Northern Virginia Transportation District Program and the Commonwealth

Transportation Board; and any other funds as may be appropriated by the General Assembly from time to time and designated for this Fund and all interest, dividends and appreciation which may accrue thereto. Any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund, but shall remain in the Fund, subject to the determination by the Commonwealth Transportation Board that a Category 2, 3, ~~or 4~~, *or 5* project or projects may be funded.

B. Allocations from this Fund may be paid (i) to any authority, locality or commission for the purposes of paying the costs of the Northern Virginia Transportation District Program which consists of the following: the Fairfax County Parkway, Route 234 Bypass *and Dulles Connector*, Metro Capital Improvements, including the Franconia-Springfield Metrorail Station and new rail car purchases, Route 7 improvements in Loudoun County and Fairfax County, Route 50/Courthouse Road interchange improvements in Arlington County, the Route 28/Route 625 interchange improvements in Loudoun County, Metrorail capital improvements attributable to the City of Alexandria, including the King Street Metrorail station access, Metrorail capital improvements attributable to Arlington County, including Ballston Station improvements, Route 15 safety improvements in Loudoun County, Route 1/Route 123 interchange improvements in Prince William County, Lee Highway improvements in the City of Fairfax, Route 123 improvements in Fairfax County, Telegraph Road improvements in Fairfax County, Route 1/Route 234 interchange improvements in Prince William County, Potomac-Rappahannock Transportation Commission bus replacement program, ~~and Dulles Corridor Enhanced Transit program~~ *Program, I-66 improvements and rail extension, I-95 improvements and rail extension, Route One improvements, new eastern Potomac River crossing, I-495 improvements and transit improvements, Fairfax Parkway, Tri-County/Loudoun Parkway, Route 234 Bypass extended, Metrorail new railcar purchase and station enhancements, urban system improvements, secondary system improvements, Route 7 Loudoun and Fairfax, Columbia Pike/Route 7 Transit, Fairfax CUE purchase/facilities, and VRE new railcar* and (ii) for ~~Category 4~~ *Category 5* projects as provided in § 2 of the act or acts authorizing the issuance of Bonds for the Northern Virginia Transportation District Program.

C. On or before July 15, 1994, \$19 million shall be transferred to the Fund. Such transfer shall be made by the issuance of a treasury loan at no interest in the amount of \$19 million in the event such an amount is not included for the Fund in the general appropriation act enacted by the 1994 Session of the General Assembly. Such treasury loan shall be repaid from the Commonwealth's portion of the state recordation tax imposed by Chapter 8 (§ 58.1-800 et seq.) of Title 58.1 designated for the Fund by this section and § 58.1-816.

2. That § 2 of Chapter 391 of the Acts of Assembly of 1993, as amended by Chapters 470 and 597 of the Acts of Assembly of 1994 and by Chapters 740 and 761 of the Acts of Assembly of 1998 and by Chapter 538 of the Acts of Assembly of 1999, is amended and reenacted as follows:

§ 2. The Commonwealth Transportation Board is hereby authorized, by and with the consent of the Governor, to issue, pursuant to the provisions of §§ 33.1-267 through 33.1-295, at one time or from time to time, bonds of the Commonwealth to be designated "Commonwealth of Virginia Transportation Contract Revenue Bonds, Series", in an aggregate principal amount not exceeding \$471,200,000,2,771,200,000 to finance the cost of the projects plus an amount for the issuance costs, capitalized interest, reserve funds, and other financing expenses (the "Bonds"). The proceeds of the Bonds shall be used exclusively for the purpose of providing funds, with any other available funds, for paying the costs incurred or to be incurred for construction or funding of the projects which comprise the Northern Virginia Transportation District Program as hereinafter defined and as established in Article 5 (§ 33.1-267 et seq.) of Chapter 3 of Title 33.1, consisting of environmental and engineering studies, rights-of-way acquisition, improvements to all modes of transportation, construction and related improvements (the "projects"). Such costs may include the payment of interest on the Bonds for a period during construction and not exceeding one year after completion of construction of the projects.

The projects shall be classified as Category 1, Category 2, Category 3, ~~and Category 4~~, *and Category 5* projects, each category being subject to different preconditions. Bonds to finance the cost of Category 1, ~~and Category 3~~, *and Category 4* projects may be issued by the Commonwealth Transportation Board. Bonds to finance the cost of Category 2 projects may be issued by the Commonwealth Transportation Board only if the aggregate principal amount of \$466,200,000 in bonds has been issued to finance the cost of Category 1 and Category 3 projects. Category 4 *5* projects shall not be financed through the issuance of bonds; however, ~~after all Bonds authorized have been issued, then~~ to the extent the Northern Virginia Transportation District Fund contains amounts in excess of the amount needed to pay annual debt service on such Bonds in a particular fiscal year, such excess amounts may be expended to pay the cost of the work identified as Category 4 *5* projects.

The projects, and the amount of bonds authorized to be issued for each such project, are as follows and constitute the Northern Virginia Transportation District Program:

Category 1 projectsBond amount
Metro Capital Improvements,

548 including the Franconia-Springfield Metrorail Station\$85,600,000
 549 Fairfax County Parkway\$87,000,000
 550 Route 234 Bypass\$73,400,000
 551 Route 7 improvements between Route 15 and Route 28 in
 552 Loudoun County\$15,000,000
 553 Total\$261,000,000
 554 Category 2 projects consist of the Route 234 Bypass/Route 28 interchange improvements in Prince
 555 William County, in the amount of \$5,000,000.
 556 Category 3 projects Bond amount
 557 Route 50/Courthouse Road interchange\$10,000,000
 558 Fairfax County Parkway —
 559 Partially-funded segments between Route 1 and Route 7\$50,000,000
 560 Route 234 Bypass from Route 28 to Route 234\$15,300,000
 561 Route 28/Route 625 interchange\$7,900,000
 562 Metrorail Capital Improvements attributable to the
 563 City of Alexandria, including the King Street Metrorail
 564 station access\$8,600,000
 565 Metrorail Capital Improvements,
 566 including new rail car purchases\$29,300,000
 567 Route 15 Safety Improvements
 568 Leesburg Town Line to Potomac River\$10,100,000 Route1/Route123 Interchange\$8,200,000
 569 LeeHighwayImprovementsCityofFairfax\$3,100,000 Route 123 Widening Occoquan River to Lee Chapel
 570 Road\$27,000,000 Dulles Corridor Enhanced Transit Program\$6,000,000 Route 7 Improvements-Loudoun
 571 County Line
 572 to Reston Parkway\$10,000,000 Route 7 Improvements-Reston Parkway to Dulles Toll
 573 Road\$3,000,000 TelegraphRoadImprovements-S.KingsHighwayto Beulah St.\$5,000,000 Route1/Route234
 574 Interchange\$4,000,000 Potomac-Rappahannock Transportation Commission
 575 Bus Replacement Program\$1,500,000 Metrorail Capital Improvements attributable to
 576 Arlington County, including Ballston Station improvements\$6,200,000
 577 Total\$205,200,000
 578 Category 4 projectsBond amount
 579 Dulles Corridor Transit (local share)\$300,000,000
 580 I-66 Improvements and Rail Extension\$300,000,000
 581 I-95 Improvements and Rail Extension\$300,000,000
 582 Route 1 Improvements\$100,000,000
 583 New Eastern Potomac River Crossing\$200,000,000
 584 I-495 Improvements and Transit Improvements\$200,000,000
 585 Fairfax Parkway \$150,000,000
 586 Tri-County/Loudoun Parkway\$100,000,000
 587 VRE New Railcar\$50,000,000
 588 Route 234 Bypass Extended\$50,000,000
 589 Metrorail New Railcar Purchase & Station Enhancements\$200,000,000
 590 Secondary System Improvements \$100,000,000
 591 Urban System Improvements \$50,000,000
 592 Route 7 Loudoun & Fairfax \$100,000,000
 593 Columbia Pike/ Route 7 Transit \$90,000,000
 594 Fairfax CUE Bus purchase/facilities \$10,000,000
 595 Total\$2,300,000,000
 596 The Commonwealth Transportation Board shall only issue the bonds for Category 3 projects in an
 597 amount or amounts necessary to expedite or complete the Category 3 projects if the following conditions
 598 are satisfied: (i) at least two of the jurisdictions participating in the Northern Virginia Transportation
 599 District Program have entered into a contract pursuant to § 58.1-815.1 and (ii) the governing bodies of
 600 at least five of the jurisdictions participating in the Northern Virginia Transportation District Program
 601 and comprising a majority of the population of the jurisdictions participating in such Program have
 602 adopted resolutions endorsing the proposed sale or sales of bonds to support the Category 3 projects.
 603 Such contracts and resolutions shall remain in force so long as any debts or obligations for Category 3
 604 projects remain outstanding.
 605 Bond proceeds for Category 4 Secondary and Urban System Improvements shall be allocated on the
 606 basis of population of participating jurisdictions based on the 2000 Census.
 607 The work identified as Category 45 projects to be funded from the Northern Virginia Transportation
 608 District Fund, to the extent there are sums in excess of the amount needed to pay debt service on the
 609 Bonds in a given fiscal year, is as follows:

Category 4 5 projects

To the extent that the sales and use tax revenues deposited into the Northern Virginia Transportation District Fund pursuant to subsection G of § 58.1-638 exceed the amount needed to pay annual debt service on bonds issued to support Category 4 projects in any particular fiscal year, the Commonwealth Transportation Board may allocate such funds to Category 5 projects subject to the following conditions: (a) upon the recommendation of the participating jurisdictions up to fifteen percent of such funds shall be allocated to new or expanded transit operational costs, (b) any remaining funds shall be allocated to specific Category 4 projects provided that the Commonwealth Transportation Board determines such allocations will materially advance the construction of such Category 4 projects; and (c) upon the recommendations of the participating jurisdictions, any remaining funds shall be allocated to fund other transit, primary, urban, or secondary project or projects.

~~Such~~ *To the extent that all other deposits into the Northern Virginia Transportation District Fund exceed the amount necessary to pay annual debt service on bonds issued to support Category 1, Category 2, and Category 3 projects, the Commonwealth Transportation Board shall allocate such funds to Category 5 projects as may be concurred in by the local jurisdictions participating in the Northern Virginia Transportation District Program, as evidenced by resolutions adopted by an affirmative vote of each of the jurisdictions participating in the Northern Virginia Transportation District Program and subject to such guidelines and conditions as may be promulgated by the Commonwealth Transportation Board.*

The Bonds shall be issued by the Commonwealth Transportation Board and sold through the Treasury Board, which is hereby designated the sales and paying agent of the Commonwealth Transportation Board with respect to the Bonds. The Treasury Board's duties shall include the approval of the terms and structure of the Bonds. In the event the aggregate principal amount of the issuance, for the projects and amounts authorized by the 1994 amendments to Chapter 391 of the Acts of Assembly of 1993, is less than \$127,000,000, the Commonwealth Transportation Board shall cause each Category 1 project to be shared in the reduced issuance by reducing the proceeds of the Bonds for each of the Category 1 projects on a pro rata basis.

3. That it shall be the duty of the officers in all counties having a population of more than 800,000, as determined by the 1990 U. S. Census, all counties and cities adjacent thereto, and all cities contiguous to such adjacent counties and cities, conducting the election directed by law to be held on the Tuesday after the first Monday in November 2001 at the places appointed for holding the same, to open a poll and take the sense of the qualified voters upon the ratification or rejection of the additional tax in those localities created by this act.

The ballot shall contain the following two questions:

"Question: Shall an additional state sales tax of one-half percent be levied in Arlington County, Fairfax County, Loudoun County, Prince William County, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park in accordance with subsection B of § 58.1-603 and subsection B of § 58.1-604, of the Code of Virginia, with the revenues generated thereby within each locality to be used within each locality solely for educational capital projects as defined in subdivision G 1 of § 58.1-638 of the Code of Virginia?"

"Question: Shall an additional state sales tax of one-half percent be levied in Arlington County, Fairfax County, Loudoun County, Prince William County, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park in accordance with subsection C of § 58.1-603 and subsection C of § 58.1-604 of the Code of Virginia, with the revenues to be used solely for transportation projects and purposes as specified in Chapter (. . .) of the Acts of Assembly of 2001?"

4. That a regional transportation authority that is so authorized by the General Assembly may issue bonds for Category 4 projects and allocate funds for Category 5 projects pursuant to the second enactment.

5. That the Department of Taxation shall promulgate all necessary and reasonable regulations to govern the administration of the tax created by this act, including, but not limited to, a bracket system for the collection of taxes in the localities set forth in the second enactment.

6. That the revenues distributed to localities for educational purposes or dedicated to transportation purposes pursuant to subsection G of § 58.1-638 shall not diminish or replace allocations for educational or transportation purposes made by the localities, the Commonwealth, or any other source, but shall be supplemental to all such other allocations.

7. That the revenues dedicated to transportation purposes pursuant to subsection G of § 58.1-638 shall not be used to calculate or reduce the share of federal and state revenues otherwise available to participating jurisdictions or to the Northern Virginia Transportation District.

8. That, except for the third enactment, the provisions of this act shall be effective on January 1, 2002, and only if a majority of those voting at the election and upon the questions described in the

671 third enactment of this act vote in the affirmative on both questions presented; provided that if
672 the majority of such voters vote in the affirmative on one but not both questions then only those
673 provisions of this act relating to the question receiving such affirmative vote shall be effective. For
674 purposes of this act, "a majority of those voting at the election" means a majority of those voting
675 in the entire region constituted by the localities specified in the second enactment, and does not
676 require a majority of those voting in each locality.