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HOUSE BILL NO. 1296

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations)

(Patrons Prior to Substitute—Delegates Rollison and Hull [HB 1163])

House Amendments in [] — February 12, 2002

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, 58.1-815.1, and 58.1-3833 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 and to repeal Article 22 (§ 58.1-540 et seq.) of Chapter 3 of Title 58.1, relating to sales and use taxes in any of the nine highway construction districts established by the Virginia Department of Transportation in which all component counties and cities have been designated nonattainment areas under the Clean Air Act, and dedicating revenues from such taxes for transportation projects in such counties and cities to help rectify such nonattainment status.

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

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

Whereas, the Commonwealth is into regional highway construction districts by the Department of Transportation, recognizing, in part, that safe, adequate, and efficient highway systems cannot be achieved on a locality by locality basis, but requires planning and action on a regional basis; and

Whereas, when all the counties and cities of such a highway construction district are designated serious nonattainment for one-hour ozone, there is a commonality of interest and a commonality of ability to act because the resulting serious regional problem coincides with a previously determined region where rectifying transportation projects are naturally connected; and

Whereas, all of the counties and cities in the Northern Virginia construction district were designated in 1992 as serious nonattainment for one-hour ozone under the Clean Air Act and remain with such designation today, creating a crisis that requires bold and immediate action, and

Whereas, other highway construction districts in the Commonwealth may in the future be designated similarly and a procedure should be put in place to deal with such future crises; now, therefore,

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, 58.1-815.1, and 58.1-3833 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/Route 659 Relocated, 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 (locality share), I-66 improvements and rail extension (I-495 to Route 15), I-95/I-395 improvements and transit improvements, Route 1 improvements, I-495 improvements and transit improvements, Tri-County/Loudoun Parkway, Metrorail infrastructure replacement program (Virginia locality share), urban system improvements, secondary system improvements (including unpaved roads), Route 7 improvements (Loudoun County), Route 7 improvements (Fairfax County), Columbia Pike/Route 7 Transit improvements, rail safety improvements, and VRE new railcar purchase.

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

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

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

75 E. The Commonwealth Transportation Board is authorized to receive, dedicate or use first from (i)
76 revenues received from the Northern Virginia Transportation District Fund, (ii) to the extent required,
77 funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the
78 highway construction district in which the project or projects to be financed are located or to the city or
79 county in which the project or projects to be financed are located, (iii) to the extent required, legally
80 available revenues of the Transportation Trust Fund, and (iv) such other funds which may be
81 appropriated by the General Assembly for the payment of bonds or other obligations, including interest
82 thereon, issued in furtherance of the Program. No such bond or other obligations shall pledge the full
83 faith and credit of the Commonwealth.

84 § 58.1-603. Imposition of sales tax.

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

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

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

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

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

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

101 B. *An additional sales tax of one-half percent is hereby levied and imposed in all counties and cities*
102 *in any highway construction district established by the Department of Transportation wherein, on*
103 *January 1, 2002, all such counties and cities have been designated nonattainment for the one-hour*
104 *ozone standard as set forth in the federal Clean Air Act.*

105 § 58.1-604. Imposition of use tax.

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

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

121 2. Of the cost price of each item or article of tangible personal property stored outside this

Commonwealth for use or consumption in this Commonwealth.

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

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

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

B. An additional use tax of one-half percent is hereby levied and imposed in all counties and cities in any highway construction district established by the Department of Transportation wherein, on January 1, 2002, all such counties and cities have been designated nonattainment for the one-hour ozone standard as set forth in the federal Clean Air Act.

§ 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.

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

189 *G. The tax imposed by subsection B of § 58.1-603 and by subsection B of § 58.1-604 shall not apply*
 190 *to food purchased for human consumption.*

191 § 58.1-614. Vending machine sales.

192 A. Notwithstanding the provisions of §§ 58.1-603 and 58.1-604, whenever a dealer makes sales of
 193 tangible personal property through vending machines, or in any other manner making collection of the
 194 tax impractical, as determined by the Tax Commissioner, such dealer shall be required to report his
 195 wholesale purchases for sale at retail from vending machines and shall be required to remit an amount
 196 based on four and one-half percent of such wholesale purchases, *except that such wholesale purchases*
 197 *shall be taxed at a rate of five percent in any locality in which the tax under subsection B of § 58.1-603*
 198 *is imposed.*

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

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

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

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

215 § 58.1-627. Bracket system for tax at rate of three and one-half percent.

216 The following brackets of prices shall be used for the collection of the tax imposed by this chapter,
 217 *except for the tax imposed pursuant to subsection B of § 58.1-603 or pursuant to subsection B of*
 218 *§ 58.1-604:*

219	\$0.00	to	\$0.14	no	tax
220	.15	to	.42	1¢	tax
221	.43	to	.71	2¢	tax
222	.72	to	.99	3¢	tax
223	1.00	to	1.28	4¢	tax
224	1.29	to	1.57	5¢	tax
225	1.58	to	1.85	6¢	tax
226	1.86	to	2.14	7¢	tax
227	2.15	to	2.42	8¢	tax
228	2.43	to	2.71	9¢	tax
229	2.72	to	2.99	10¢	tax
230	3.00	to	3.28	11¢	tax
231	3.29	to	3.57	12¢	tax
232	3.58	to	3.85	13¢	tax
233	3.86	to	4.14	14¢	tax
234	4.15	to	4.42	15¢	tax
235	4.43	to	4.71	16¢	tax
236	4.72	to	5.00	17¢	tax

237
 238 *Except in the localities in which the tax under subsection B of § 58.1-603 is imposed, on transactions*
 239 *over greater than five dollars, the tax shall be computed at three and one-half percent, one-half cent or*
 240 *more being treated as one cent. In the localities in which the tax under subsection B of § 58.1-603 is*
 241 *imposed, on transactions greater than five dollars, the tax shall be computed at four percent, one-half*
 242 *cent or more being treated as one cent. If a dealer can show to the satisfaction of the Tax*

Commissioner that more than eighty-five percent of the total dollar volume of his gross taxable sales during the taxable month was from individual sales at prices of ten cents or less each, and that he was unable to adjust his prices in such manner as to prevent the economic incidence of the sales tax from falling on him, the Tax Commissioner shall determine the proper tax liability of the dealer based on that portion of the dealer's gross taxable sales which was from sales at prices of eleven cents or more.

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

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

\$0.00	to	\$0.11	no	tax
.12	to	.33	1¢	tax
.34	to	.55	2¢	tax
.56	to	.77	3¢	tax
.78	to	.99	4¢	tax
1.00	to	1.22	5¢	tax
1.23	to	1.44	6¢	tax
1.45	to	1.66	7¢	tax
1.67	to	1.88	8¢	tax
1.89	to	2.11	9¢	tax
2.12	to	2.33	10¢	tax
2.34	to	2.55	11¢	tax
2.56	to	2.77	12¢	tax
2.78	to	2.99	13¢	tax
3.00	to	3.22	14¢	tax
3.23	to	3.44	15¢	tax
3.45	to	3.66	16¢	tax
3.67	to	3.88	17¢	tax
3.89	to	4.11	18¢	tax
4.12	to	4.33	19¢	tax
4.34	to	4.55	20¢	tax
4.56	to	4.77	21¢	tax
4.78	to	5.00	22¢	tax

Except in the localities in which the tax under subsection B of § 58.1-603 is imposed, on transactions over greater than five dollars, the tax shall be computed at four and one-half percent, one half cent or more being treated as one cent. In the localities in which the tax under subsection B of § 58.1-603 is imposed, on transactions greater than five dollars, the tax shall be computed at five percent, one-half cent or more being treated as one cent. The foregoing bracket system shall not relieve the dealer from the duty and liability to remit an amount equal to four and one-half percent of his gross taxable sales as provided in this chapter. If the dealer, however, can show to the satisfaction of the Tax Commissioner that more than eighty-five percent of the total dollar volume of his gross taxable sales during the taxable month was from individual sales at prices of ten cents or less each and that he was unable to adjust his prices in such manner as to prevent the economic incidence of the sales tax from falling on him, the Tax Commissioner shall determine the proper tax liability of the dealer based on that portion of the dealer's gross taxable sales which was from sales at prices of eleven cents or more.

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

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

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

302 be made to the Fund on the last day of each month.

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

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

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

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

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

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

332 Of the remaining amount:

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

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

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

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

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

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

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

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

362 (2) The Board may allocate these funds to any locality or planning district commission to finance up
363 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

425 among the counties and cities of this Commonwealth in the manner provided in subsections C and D.

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

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

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

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

470 G. 1. *Except as provided in subdivision 2, the sales and use tax revenue generated and collected*
471 *pursuant to subsection B of § 58.1-603 and subsection B of § 58.1-604, shall be distributed among the*
472 *applicable counties and cities pursuant to the same methodology as provided in subsections E, F, and G*
473 *of § 58.1-605. All revenue distributed pursuant to this section shall be used solely for transportation*
474 *purposes.*

475 2. *The amount of revenue that otherwise would have been distributed, pursuant to subdivision 1, to*
476 *any county or city that is a member of a regional transportation program established by the General*
477 *Assembly, shall be deposited in the applicable special fund for such program [, except for such funds*
478 *as may be necessary to conduct an annual independent analysis and evaluation of the Department of*
479 *Transportation's performance in each locality subject to said sales and use tax revenue. The contract for*
480 *such services, to be awarded by the Secretary of Administration, shall provide for, among other things,*
481 *analysis and review of construction awards, cost overruns, completion schedules, and budget. The initial*
482 *analysis and evaluation shall be completed and presented to the Governor and the General Assembly no*
483 *later than July 1, 2004. The person, organization, or corporation conducting such evaluation shall make*
484 *such evaluation available in written and electronic formats accessible to the public. Thereafter, reports*
485 *shall be presented by December 31 of each year] .*

486 G H. 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 §§ *subsection B of § 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 B of § 58.1-603 and subsection B 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 *or the Northern Virginia Transportation Authority* 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/*Route 659 Relocated*, 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~~ *(locality share), I-66 improvements and rail extension (I-495 to Route 15), I-95/I-395 improvements and transit improvements, Route 1 improvements, I-495 improvements and transit improvements, Tri-County/Loudoun Parkway, Metrorail infrastructure replacement program (Virginia locality share), urban system improvements, secondary system improvements (including unpaved roads), Route 7 improvements (Loudoun County), Route 7 improvements (Fairfax County), Columbia Pike/Route 7 Transit improvements, rail safety improvements, and VRE new railcar purchase* and (ii) for Category 4 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.

§ 58.1-3833. County food and beverage tax.

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

This tax shall be levied only if the tax is approved in a referendum within the county which shall be held in accordance with § 24.2-684 and initiated either by a resolution of the board of supervisors or on the filing of a petition signed by a number of registered voters of the county equal in number to ten percent of the number of voters registered in the county, as appropriate on January 1 of the year in

548 which the petition is filed with the court of such county. The clerk of the circuit court shall publish
549 notice of the election in a newspaper of general circulation in the county once a week for three
550 consecutive weeks prior to the election. If the voters affirm the levy of a local meals tax, the tax shall
551 be effective in an amount and on such terms as the governing body may by ordinance prescribe. If such
552 resolution of the board of supervisors or such petition states for what projects and/or purposes the
553 revenues collected from the tax are to be used, then the question on the ballot for the referendum shall
554 include language stating for what projects and/or purposes the revenues collected from the tax are to be
555 used.

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

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

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

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

576 E. Notwithstanding any other provision of this section, no locality shall levy any tax under this
577 section upon alcoholic beverages sold in factory sealed containers and purchased for off-premises
578 consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of
579 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the
580 following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads
581 consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

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

585 § 2. The Commonwealth Transportation Board is hereby authorized, by and with the consent of the
586 Governor, to issue, pursuant to the provisions of §§ 33.1-267 through 33.1-295, at one time or from time
587 to time, bonds of the Commonwealth to be designated "Commonwealth of Virginia Transportation
588 Contract Revenue Bonds, Series", in an aggregate principal amount not exceeding \$471,200,000
589 2,746,200,000 to finance the cost of the projects plus an amount for the issuance costs, capitalized
590 interest, reserve funds, and other financing expenses (the "Bonds"); *provided, however, that (i) in the*
591 *fiscal year ending July 1, 2003, the total principal amount of such bonds that may be issued shall not*
592 *exceed \$100 million, (ii) in the fiscal year ending July 1, 2004, the total principal amount of such bonds*
593 *that may be issued shall not exceed \$100 million, and (iii) in each fiscal year thereafter the total*
594 *principal amount of such bonds that may be issued shall not exceed \$200 million.* The proceeds of the
595 Bonds shall be used exclusively for the purpose of providing funds, with any other available funds, for
596 paying the costs incurred or to be incurred for construction or funding of the projects which comprise
597 the Northern Virginia Transportation District Program as hereinafter defined and as established in Article
598 5 (§ 33.1-267 et seq.) of Chapter 3 of Title 33.1, consisting of environmental and engineering studies,
599 rights-of-way acquisition, improvements to all modes of transportation, construction and related
600 improvements (the "projects"). Such costs may include the payment of interest on the Bonds for a period
601 during construction and not exceeding one year after completion of construction of the projects.

602 The projects shall be classified as Category 1, Category 2, Category 3, ~~and~~ Category 4, *and Category*
603 *5* projects, each category being subject to different preconditions. Bonds to finance the cost of Category
604 1, ~~and~~ Category 3, *and Category 4* projects may be issued by the Commonwealth Transportation Board.
605 Bonds to finance the cost of Category 2 projects may be issued by the Commonwealth Transportation
606 Board only if the aggregate principal amount of \$466,200,000 in bonds has been issued to finance the
607 cost of Category 1 and Category 3 projects. Category 4 *5* projects shall not be financed through the
608 issuance of bonds; however, ~~after all Bonds authorized have been issued, then~~ to the extent the Northern
609 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 projects	Bond amount
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Metro Capital Improvements, including	
the Franconia-Springfield Metrorail Station	\$85,600,000
Fairfax County Parkway	\$87,000,000
Route 234 Bypass	\$73,400,000
Route 7 improvements between Route 15 and	
Route 28 in Loudoun County	\$15,000,000
Total	\$261,000,000

Category 2 projects consist of the Route 234 Bypass/Route 28 interchange improvements in Prince William County, in the amount of \$5,000,000.

Category 3 projects	Bond amount
Route 50/Courthouse Road interchange	\$10,000,000
Fairfax County Parkway -- Partially-funded segments between Route 1 and Route 7	\$50,000,000
Route 234 Bypass from Route 28 to Route 234	\$15,300,000
Route 28/Route 625 interchange	\$7,900,000
Metrorail Capital Improvements attributable to the City of Alexandria, including the King Street Metrorail station access	\$8,600,000
Metrorail Capital Improvements, including new rail car purchases	\$29,300,000
Route 15 Safety Improvements	
Leesburg Town Line to Potomac River	\$10,100,000
Route 1/Route 123 Interchange	\$8,200,000
Lee Highway Improvements City of Fairfax	\$3,100,000
Route 123 Widening Occoquan River to Lee Chapel Road	\$27,000,000
Dulles Corridor Enhanced Transit Program	\$6,000,000
Route 7 Improvements-Loudoun County Line to Reston Parkway	\$10,000,000

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667	Route 7 Improvements-Reston Parkway to	
668	Dulles Toll Road	\$3,000,000
669		
670	Telegraph Road Improvements - S.Kings Highway to	
671	Beulah St.	\$5,000,000
672		
673	Route 1/Route 234 Interchange	\$4,000,000
674		
675	Potomac-Rappahannock Transportation Commission	
676	Bus Replacement Program	\$1,500,000
677		
678	Metrorail Capital Improvements attributable to	
679	Arlington County, including Ballston Station	
680	improvements	\$6,200,000
681		
682	Total	\$205,200,000
683		
684	Category 4 projects	Bond amount
685		
686	Dulles Corridor Transit (locality share)	\$300,000,000
687		
688	I-66 Improvements and Rail Extension	
689		
690	(I-495 to Route 15)	\$300,000,000
691		
692	I-95/I-395 improvements and transit improvements	\$300,000,000
693		
694	Route 1 Improvements	\$150,000,000
695		
696	I-495 Improvements and Transit Improvements	\$200,000,000
697		
698	Fairfax County Parkway	\$150,000,000
699		
700	Tri-County/Loudoun Parkway	\$100,000,000
701		
702	VRE New Railcar Purchase	\$50,000,000
703		
704	Route 234 Bypass/Route 659 Relocated	\$50,000,000
705		
706	Metrorail Infrastructure Replacement Program	
707		
708	(Virginia locality share)	\$200,000,000
709		
710	Secondary System Improvements (including	
711	unpaved roads)	\$150,000,000
712		
713	Urban System Improvements	\$90,000,000
714		
715	Route 7 Improvements Loudoun	\$75,000,000
716		
717	Route 7 Improvements Fairfax	\$75,000,000
718		
719	Columbia Pike/ Route 7 Transit Improvements	\$75,000,000
720		
721	Rail Safety Improvements	\$10,000,000
722		
723		

724 *Total* \$2,275,000,000

725
726 The Commonwealth Transportation Board shall only issue the bonds for Category 3 projects in an
727 amount or amounts necessary to expedite or complete the Category 3 projects if the following conditions
728 are satisfied: (i) at least two of the jurisdictions participating in the Northern Virginia Transportation
729 District Program have entered into a contract pursuant to § 58.1-815.1 and (ii) the governing bodies of
730 at least five of the jurisdictions participating in the Northern Virginia Transportation District Program
731 and comprising a majority of the population of the jurisdictions participating in such Program have
732 adopted resolutions endorsing the proposed sale or sales of bonds to support the Category 3 projects.
733 Such contracts and resolutions shall remain in force so long as any debts or obligations for Category 3
734 projects remain outstanding.

735 *The Commonwealth Transportation Board shall only issue the bonds for Category 4 projects in an*
736 *amount or amounts necessary to expedite or complete the Category 4 projects upon the concurrence of*
737 *the Northern Virginia Transportation Authority. The proceeds of such bonds shall be allocated by the*
738 *Commonwealth Transportation Board for Category 4 projects only upon the concurrence of the*
739 *Northern Virginia Transportation Authority.*

740 *Bond proceeds for Category 4 Secondary System Improvements shall be allocated on the basis of*
741 *population of those localities in subsection A of § 58.1-815.1 that receive allocations of funds for*
742 *secondary system highways pursuant to § 33.1-23.4, as such populations are determined by the 2000*
743 *U.S. Census. Bond proceeds allocated for Urban System Improvements shall be allocated on the basis of*
744 *population of (i) those localities in subsection A of § 58.1-815.1 that receive allocations of funds for*
745 *urban system highways pursuant to § 33.1-23.3, and (ii) those towns situated within those localities*
746 *described in clause (i) that receive allocations of funds for urban system highways pursuant to*
747 *§ 33.1-23.3, as such populations are determined by the 2000 U.S. Census.*

748 The work identified as Category 4 5 projects to be funded from the Northern Virginia Transportation
749 District Fund, to the extent there are sums in excess of the amount needed to pay debt service on the
750 Bonds in a given fiscal year, is as follows:

751 Category 4 5 projects.

752 *To the extent that the sales and use tax revenues deposited into the Northern Virginia Transportation*
753 *District Fund pursuant to subsection G of § 58.1-638 exceed the amount needed to pay annual debt*
754 *service on bonds issued to support Category 4 projects in any particular fiscal year, the Northern*
755 *Virginia Transportation Authority, pursuant to § 15.2-4828, may designate Category 5 projects to be*
756 *funded subject to the following conditions: (i) fifteen percent of such funds shall be allocated to transit*
757 *operational costs; (ii) any remaining funds shall be allocated to specific Category 4 projects provided*
758 *that the Authority determines such allocations will materially advance the construction of such Category*
759 *4 projects; and (iii) any remaining funds shall be allocated to fund other transit, primary, urban, or*
760 *secondary project or projects.*

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

769 The Bonds shall be issued by the Commonwealth Transportation Board and sold through the
770 Treasury Board, which is hereby designated the sales and paying agent of the Commonwealth
771 Transportation Board with respect to the Bonds. The Treasury Board's duties shall include the approval
772 of the terms and structure of the Bonds. In the event the aggregate principal amount of the issuance, for
773 the projects and amounts authorized by the 1994 amendments to Chapter 391 of the Acts of Assembly
774 of 1993, is less than \$127,000,000, the Commonwealth Transportation Board shall cause each Category
775 1 project to be shared in the reduced issuance by reducing the proceeds of the Bonds for each of the
776 Category 1 projects on a pro rata basis.

777 **3. That it shall be the duty of the officers in all of the counties and cities that, on January 1, 2002,**
778 **meet the criteria set forth in subsection B of § 58.1-603 and subsection B of § 58.1-604, conducting**
779 **the election directed by law to be held on the Tuesday after the first Monday in November 2002 at**
780 **the places appointed for holding the same, to open a poll and take the sense of the qualified voters**
781 **upon the ratification or rejection of the additional tax in those localities created by this act.**

782 The ballot shall contain the following question:

783 "Question: Shall an additional state sales and use tax of one-half percent be levied in Arlington
784 County, Fairfax County, Loudoun County, Prince William County, the City of Alexandria, the

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785 City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park in
786 accordance with subsection B of § 58.1-603 and subsection B of § 58.1-604 of the Code of Virginia,
787 with the revenues to be used solely for transportation projects and transportation programs as
788 specified in Chapter (. . .) of the Acts of Assembly of 2002."

789 4. That the Department of Taxation shall promulgate all necessary and reasonable regulations to
790 govern the administration of the tax authorized by this act.

791 5. That the revenues dedicated to transportation purposes pursuant to subsection G of § 58.1-638
792 shall not be used to calculate or reduce the share of local, federal, and state revenues otherwise
793 available to participating jurisdictions or to their highway construction district.

794 6. That, as a condition of the financial assistance provided under this act for the transportation
795 projects set forth in the second enactment, no city or county in which any such transportation
796 projects are wholly or partially located shall reduce its local contribution to Metrorail capital
797 improvements below the amount it contributed for such improvements in its operating year that
798 began in calendar year 2001.

799 7. That the second, sixth, and eighth enactments, and the additional tax under subsection B of
800 § 58.1-603 and subsection B of § 58.1-604 in the localities set forth in the third enactment, shall be
801 effective on July 1, 2003, and only if a majority of those voting at the election and upon the
802 question described in the third enactment vote in the affirmative upon such question. For purposes
803 of this enactment, "a majority of those voting at the election" means a majority of those voting in
804 the entire region constituted by the localities specified in the third enactment, and does not require
805 a majority of those voting in each locality.

806 8. That Article 22 (§ 58.1-540 et seq.) of Chapter 3 of Title 58.1 of the Code of Virginia is
807 repealed.