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SENATE BILL NO. 5016

Offered April 19, 2006

A BILL to amend and reenact §§ 15.2-4832, 15.2-4839, 58.1-611.1, 58.1-802, 58.1-811 as it shall become effective on July 1, 2006, 58.1-812, 58.1-813, 58.1-815, 58.1-815.1, and 58.1-816.1 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 15.2-4838.1, 15.2-4838.2, 46.2-755.1, 46.2-755.2, 58.1-605.1, and 58.1-606.1, by adding in Chapter 6 of Title 58.1 a section numbered 58.1-639.1, and by adding a section numbered 58.1-802.1, and to repeal Article 22 of Chapter 3 of Title 58.1, consisting of sections numbered 58.1-540 through 58.1-549, relating to the administration and funding of transportation in Northern Virginia; revenue.

Patrons—Devolites Davis, Saslaw, Howell, Puller, Ticer and Whipple

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-4832, 15.2-4839, 58.1-611.1, 58.1-802, 58.1-811 as it shall become effective on July 1, 2006, 58.1-812, 58.1-813, 58.1-815, 58.1-815.1, and 58.1-816.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 15.2-4838.1, 15.2-4838.2, 46.2-755.1, 46.2-755.2, 58.1-605.1, and 58.1-606.1, by adding in Chapter 6 of Title 58.1 a section numbered 58.1-639.1, and by adding a section numbered 58.1-802.1 as follows:

§ 15.2-4832. Composition of Authority; membership; terms.

The Authority shall consist of 4620 members as follows:

The chief elected officer of the governing body of each county and city embraced by the Authority or, in the discretion of the chief elected officer, his designee, who shall be a current elected officer of such governing body;

~~Two~~Four members of the House of Delegates who reside in different counties or cities embraced by the Authority, appointed by the Speaker of the House, to the extent practicable, from the membership of the House Committee on Appropriations, the House Committee on Finance, or the House Committee on Transportation;

~~One member~~Two members of the Senate who ~~resides in a county or city~~reside in different counties or cities embraced by the Authority, appointed by the Senate Committee on Rules, to the extent practicable, from the membership of the Senate Committee on Finance and the Senate Committee on Transportation; and

One mayor of a town that is within any county embraced by the Authority, appointed by the Governor, with future appointees to this position rotated equally among all such towns; and

Two citizens who reside in counties and cities embraced by the Authority, appointed by the Governor. One gubernatorial appointment shall include a member of the Commonwealth Transportation Board who resides in a county or city embraced by the Authority. The remaining gubernatorial appointment shall be a person who has significant experience in transportation planning, finance, engineering, construction, or management and shall be a resident of a county or city embraced by the Authority, but shall not be a resident of the same county or city as the other gubernatorial appointee to the Authority.

Legislative members shall serve terms coincident with their terms of office. The gubernatorial appointee who is not a member of the Commonwealth Transportation Board shall serve for a term of four years. The mayor of a town member shall serve for a term of two years. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments.

In addition, the following persons shall serve as nonvoting members of the Authority: the Director of the Virginia Department of Rail and Public Transportation, or his designee, and the Commonwealth Transportation Commissioner, or his designee.

The Authority shall appoint the chairman and vice-chairman.

§ 15.2-4838.1. Special Transportation Fund for Northern Virginia established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Special Transportation Fund for Northern Virginia, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All revenues dedicated for the Fund pursuant to subsection C of § 58.1-802 and as may be appropriated by the General Assembly shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each

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59 *fiscal year shall not revert to the general fund but shall remain in the Fund.*

60 *Moneys in the Fund shall be used by the Authority solely for the purposes stated in this chapter.*
61 *Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued*
62 *by the Comptroller upon written request signed by the chairman of the Authority or his designee.*

63 *§ 15.2-4838.2. Use of certain revenues by the Authority.*

64 *A. All moneys received by the Authority pursuant to subsection C of §§ 58.1-605.1 and 58.1-606.1,*
65 *§ 46.2-755.1, and § 46.2-755.2 shall be used by the Authority solely for the primary benefit of those*
66 *counties and cities that are imposing all of the taxes and fees set forth in such subsection and sections.*

67 *Notwithstanding any other provision of this chapter, all moneys received by the Authority pursuant to*
68 *subsection C of §§ 58.1-605.1 and 58.1-606.1, § 46.2-755.1, and § 46.2-755.2 shall be used as follows:*

69 *1. First, each fiscal year an amount shall be distributed to the Washington Metropolitan Area*
70 *Transit Authority (WMATA) to provide funds to the Authority that is equal to such amount as may be*
71 *required under federal law for the payment of certain federal funds to WMATA. The Authority shall*
72 *make such annual distribution from such revenues (i) only to the extent required under federal law for*
73 *the payment of federal funds to WMATA, and (ii) only if the Counties of Arlington and Fairfax and the*
74 *City of Alexandria are imposing all of the taxes and the fees authorized pursuant to subsection C of*
75 *§§ 58.1-605.1 and 58.1-606.1, § 46.2-755.1, and § 46.2-755.2 on and after March 1, 2007;*

76 *2. The next \$20 million received by the Authority in each fiscal year shall be distributed to the*
77 *Virginia Railway Express for capital projects directly relating to transportation by rail, and only if*
78 *Prince William County is imposing all of the taxes and the fees authorized pursuant to subsection C of*
79 *§§ 58.1-605.1 and 58.1-606.1, § 46.2-755.1, and § 46.2-755.2 on and after March 1, 2007; and*

80 *3. All other remaining revenues from subsection C of §§ 58.1-605.1 and 58.1-606.1, § 46.2-755.1,*
81 *and § 46.2-755.2 shall be used by the Authority solely for transportation projects for the localities that*
82 *are embraced by the Authority as determined by the Authority subject to all conditions under this*
83 *chapter.*

84 *B. Notwithstanding any other provision of this chapter, each dollar of revenue deposited into the*
85 *Special Transportation Fund for Northern Virginia pursuant to subsection C of § 58.1-802 shall be*
86 *expended or used solely for transportation facilities in the county or city from which such revenue is*
87 *generated.*

88 *§ 15.2-4839. Authority to issue bonds.*

89 *The Authority may issue bonds and other evidences of debt as may be authorized by law. The*
90 *provisions of Article 5 (§ 15.2-4519 et seq.) of Chapter 45 of this title shall apply, mutatis mutandis, to*
91 *the issuance of such bonds or other debt.*

92 *Notwithstanding any other provision of this chapter, the Authority shall not use any of the revenues*
93 *dedicated to the Special Transportation Fund for Northern Virginia pursuant to subsection C of*
94 *§ 58.1-802 directly or indirectly to pay debt service on any bond or other evidence of debt which would*
95 *establish a tax-supported debt of the Commonwealth. Further, the Authority shall not enter into any*
96 *lease agreement, obligation, or contractual arrangement that creates a direct or contingent financial*
97 *obligation of the Commonwealth unless such agreement, obligation, or contractual arrangement has first*
98 *been submitted to the State Treasurer sufficiently prior to the execution of such agreement, obligation,*
99 *or contractual arrangement to allow the State Treasurer to undertake a review for the purposes of*
100 *determining (i) whether the agreement, obligation, or contractual arrangement may constitute*
101 *tax-supported debt of the Commonwealth and (ii) the potential impact of the agreement, obligation, or*
102 *contractual arrangement on the debt capacity and credit ratings of the Commonwealth. If after such*
103 *review the State Treasurer determines that the agreement, obligation, or contractual arrangement may*
104 *constitute tax-supported debt of the Commonwealth, or may have an adverse impact on the debt*
105 *capacity or the credit ratings of the Commonwealth, the Authority shall be prohibited from entering into*
106 *such lease agreement, obligation, or contractual arrangement.*

107 *§ 46.2-755.1. Additional annual license fees in certain localities.*

108 *In addition to taxes and license fees imposed pursuant to §§ 46.2-752 and 46.2-753 and to all other*
109 *fees permitted by law, each of the governing bodies of the Counties of Arlington, Fairfax, Loudoun, and*
110 *Prince William, and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park are*
111 *authorized to charge additional annual license fees as follows: \$30 for passenger cars; \$40 for pickup*
112 *or panel trucks; \$20 for trailers; \$15 for motorcycles; \$50 for trucks; and \$12 for all other motor*
113 *vehicles for which the locality collects an annual license fee.*

114 *The governing body of the city or county shall appropriate the revenues collected from the additional*
115 *fees imposed pursuant to this section to the Northern Virginia Transportation Authority established*
116 *under § 15.2-4830.*

117 *No locality imposing the additional annual license fee pursuant to this section shall cease to impose*
118 *such fee so long as the Northern Virginia Transportation Authority (i) is currently engaged in a*
119 *transportation project within the boundaries of the locality, (ii) has entered into a binding commitment*
120 *to begin a transportation project within the boundaries of the locality, or (iii) has issued bonds or*

incurred other evidence of debt that has not been satisfied or paid in full and that relates to a transportation project undertaken by the Authority within the boundaries of the locality.

§ 46.2-755.2. Additional initial license fees in certain localities.

In addition to taxes and license fees imposed pursuant to §§ 46.2-752 and 46.2-753 and to all other fees permitted by law, each of the governing bodies of the Counties of Arlington, Fairfax, Loudoun, and Prince William, and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park are authorized to charge an additional initial, one-time license fee on all vehicles for which the locality is authorized under this chapter to collect a license fee, at the rate of 0.50% of the average retail value of the vehicle according to the National Automobile Dealers Association, or successor thereto, at the time the vehicle is first registered in the locality by the owner of the vehicle. If the model and year of an individual vehicle is not listed by the National Automobile Dealers Association, the individual vehicle may be valued on the basis of percentage or percentages of original cost. License fees authorized by this section shall be imposed only once, so long as the ownership of the vehicle upon which they are imposed remains unchanged.

The governing body of the city or county shall appropriate the revenues collected from the additional fees imposed pursuant to this section to the Northern Virginia Transportation Authority established under § 15.2-4830.

No locality imposing the initial, one-time license fee pursuant to this section shall cease to impose such fee so long as the Northern Virginia Transportation Authority (i) is currently engaged in a transportation project within the boundaries of the locality, (ii) has entered into a binding commitment to begin a transportation project within the boundaries of the locality, or (iii) has issued bonds or incurred other evidence of debt that has not been satisfied or paid in full and that relates to a transportation project undertaken by the Authority within the boundaries of the locality.

§ 58.1-605.1. Additional local sales tax.

A. In addition to any other taxes, fees, or other charges imposed under law, each of the governing bodies of the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park may by ordinance levy a local retail sales tax at the rate of 0.50% to generate revenue for transportation, provided that the governing body of the county or city appropriates the revenues collected from such tax to the Northern Virginia Transportation Authority established under § 15.2-4830. Such tax shall be added to the rate of the local sales tax imposed pursuant to the authority granted under § 58.1-605 and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax described under this subsection. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax.

B. Any ordinance imposing the local retail sales tax authorized under this section shall be effective on the first day of the month that is at least 60 days subsequent to the adoption of the ordinance. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within 10 days after its adoption.

C. The revenue generated and collected pursuant to the tax authorized under this section, less the applicable portion of any refunds to taxpayers, shall be deposited and held in a special trust fund under the control of the State Treasurer entitled "Special Sales and Use Tax Fund Account of the Northern Virginia Transportation Authority." The State Treasurer shall distribute the amounts deposited in the special trust fund monthly to the Northern Virginia Transportation Authority. The Authority shall use such funds solely for the purposes as provided in § 15.2-4838.2.

D. No locality imposing the local retail sales tax pursuant to this section shall cease to impose such tax so long as the Northern Virginia Transportation Authority (i) is currently engaged in a transportation project within the boundaries of the locality, (ii) has entered into a binding commitment to begin a transportation project within the boundaries of the locality, or (iii) has issued bonds or incurred other evidence of debt that has not been satisfied or paid in full and that relates to a transportation project undertaken by the Authority within the boundaries of the locality.

§ 58.1-606.1. Additional local use tax.

A. In addition to any other taxes, fees, or other charges imposed under law, each of the governing bodies of the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park may by ordinance levy a local use tax at the rate of 0.50% to generate revenue for transportation, provided that the governing body of the county or city appropriates the revenues collected from such tax to the Northern Virginia Transportation Authority established under § 15.2-4830. Such tax shall be added to the rate of the local use tax imposed pursuant to the authority granted under § 58.1-606 and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax described under this subsection. Such tax shall be administered and collected by the Tax

182 Commissioner in the same manner and subject to the same penalties as provided for the state use tax.

183 B. Any ordinance imposing the local use tax authorized under this section shall be effective on the
184 first day of the month that is at least 60 days subsequent to the adoption of the ordinance. A certified
185 copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within
186 10 days after its adoption.

187 C. The revenue generated and collected pursuant to the tax authorized under this section, less the
188 applicable portion of any refunds to taxpayers, shall be deposited and held in a special trust fund under
189 the control of the State Treasurer entitled "Special Sales and Use Tax Fund Account of the Northern
190 Virginia Transportation Authority." The State Treasurer shall distribute the amounts deposited in the
191 special trust fund monthly to the Northern Virginia Transportation Authority. The Authority shall use
192 such funds solely for the purposes as provided in § 15.2-4838.2.

193 D. No locality imposing the local use tax pursuant to this section shall cease to impose such tax so
194 long as the Northern Virginia Transportation Authority (i) is currently engaged in a transportation
195 project within the boundaries of the locality, (ii) has entered into a binding commitment to begin a
196 transportation project within the boundaries of the locality, or (iii) has issued bonds or incurred other
197 evidence of debt that has not been satisfied or paid in full and that relates to a transportation project
198 undertaken by the Authority within the boundaries of the locality.

199 § 58.1-611.1. Rate of tax on sales of food purchased for human consumption.

200 A. The tax imposed by §§ 58.1-603 and 58.1-604 on food purchased for human consumption shall be
201 levied and distributed as follows:

202 1. From January 1, 2000, through midnight on June 30, 2005, the tax rate on such food shall be
203 three percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the
204 revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of
205 § 58.1-638, (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in
206 subsections B, C and D of § 58.1-638, and (iii) the revenue from the tax at the rate of one and one-half
207 percent shall be used for general fund purposes.

208 2. On and after July 1, 2005, the tax rate on such food shall be one and one-half percent of the gross
209 sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the
210 rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638 and (ii) the
211 revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C and
212 D of § 58.1-638.

213 B. The provisions of this section shall not affect the imposition of tax on food purchased for human
214 consumption pursuant to §§ 58.1-605 and 58.1-605.1, 58.1-606, and 58.1-606.1.

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

226 § 58.1-639.1. Exemptions for local sales and use tax.

227 Any exemption set forth in this chapter, or established pursuant to the administrative process under
228 § 58.1-609.11, for a state sales or use tax or a local sales or use tax under § 58.1-605 or 58.1-606 shall
229 also apply to the taxes imposed pursuant to §§ 58.1-605.1 and 58.1-606.1.

230 § 58.1-802. Additional tax paid by grantor; collection.

231 A. In addition to any other tax imposed under the provisions of this chapter, a tax is hereby imposed
232 on each deed, instrument, or writing by which lands, tenements or other realty sold is granted, assigned,
233 transferred, or otherwise conveyed to, or vested in the purchaser, or any other person, by such
234 purchaser's direction. ~~The~~ Except as provided in subsection C, the rate of the tax, when the consideration
235 or value of the interest exceeds \$100, shall be ~~50~~ 10 cents for each ~~\$500~~ \$100 or fraction thereof,
236 exclusive of the value of any lien or encumbrance remaining thereon at the time of the sale, whether
237 such lien is assumed or the realty is sold subject to such lien or encumbrance. ~~No increase in the city or~~
238 ~~county recordation tax authorized by § 58.1-814 shall be deemed authorized by this section.~~

239 The tax imposed by this section shall be paid by the grantor, or any person who signs on behalf of
240 the grantor, of any deed, instrument or writing subject to the tax imposed by this section.

241 No such deed, instrument or other writing shall be admitted to record without certification of the
242 clerk of the court wherein first recorded having been affixed thereto that the tax imposed by this section
243 has been paid. The clerk shall include within the certificate the amount of such tax collected thereon.

B. Taxes imposed by this section shall be collected as provided in § 58.1-812 and the clerk shall return taxes collected hereunder, *except as provided in subsection C*, one-half into the state treasury and one-half into the treasury of the locality.

The local portion of the tax imposed by this section on property which is located in more than one jurisdiction shall be collected by the clerk in proportion to the value of the property located in each such locality when recorded therein.

Every clerk of court collecting taxes under this section for the county or city which he serves shall be entitled to compensation for such service at five percent of the amount so collected and paid, *with such compensation based on a rate of 10 cents for each \$100 or fraction thereof as determined pursuant to subsection A*.

C. *The rate of the tax imposed pursuant to this section, when the consideration or value of the interest exceeds \$100, shall be 30 cents for each \$100 or fraction thereof for such realty that is located in the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park, exclusive of the value of any lien or encumbrance remaining thereon at the time of the sale, whether such lien is assumed or the realty is sold subject to such lien or encumbrance.*

The clerk shall return taxes collected hereunder for realty that is located in the counties and cities set forth in this subsection as follows: (i) taxes collected at the rate of 20 cents for each \$100 or fraction thereof as determined pursuant to subsection A shall be returned by the clerk to the state treasury, and such revenues shall be deposited by the Comptroller into the Special Transportation Fund for Northern Virginia established under § 15.2-4838.1 as soon as practical; (ii) taxes collected at the rate of 5 cents for each \$100 or fraction thereof shall be returned by the clerk to the state treasury, and such revenues shall be deposited by the Comptroller into the general fund of the state treasury; and (iii) taxes collected at the rate of 5 cents for each \$100 or fraction thereof shall be returned into the treasury of such county or city in which the realty is located. For such deposits into the Special Transportation Fund for Northern Virginia, the Comptroller shall establish subfunds for each such county and city and shall deposit such revenues generated by virtue of realty located in such counties and cities into the respective subfund.

D. No increase in the city or county recordation tax authorized by § 58.1-814 shall be deemed authorized by this section.

§ 58.1-802.1. Additional local tax paid by grantor; collection.

A. In addition to the tax imposed by § 58.1-802 and any other fee, tax, or other charge imposed under law, each of the governing bodies of the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park may, by ordinance, impose a tax on each deed, instrument, or writing by which lands, tenements or other realty sold (located in the county or city) is granted, assigned, transferred, or otherwise conveyed to, or vested in the purchaser, or any other person, by such purchaser's direction. The rate of the tax, when the consideration or value of the interest exceeds \$100, shall be 10 cents for each \$100 or fraction thereof, exclusive of the value of any lien or encumbrance remaining thereon at the time of the sale, whether such lien is assumed or the realty is sold subject to such lien or encumbrance.

The tax imposed pursuant to the authority granted under this section shall be paid by the grantor (or any person who signs on behalf of the grantor) of any deed, instrument or writing that is subject to the tax imposed pursuant to this section.

In any county or city in which such tax is imposed, no such deed, instrument or other writing shall be admitted to record without certification of the clerk of the court wherein first recorded having been affixed thereto that such tax has been paid. The clerk shall include within the certificate the amount of such tax collected thereon.

B. The tax shall be collected pursuant to subsection B of § 58.1-802. The clerk shall return all taxes collected pursuant to the authority granted under this section into the treasury of the locality, and such funds shall be used solely for local or regional projects directly relating to transportation. Such transportation projects may include debt service payments on obligations and other evidences of debt issued or entered into to finance or fund transportation projects, but only for such obligations or debt that has not been authorized and is not outstanding as of July 1, 2006.

The tax imposed pursuant to the authority granted under this section on property which is located in more than one jurisdiction shall be collected by the clerk in proportion to the value of the property located in each locality when recorded therein.

C. No increase in the city or county recordation tax authorized by § 58.1-814 shall be deemed authorized by this section.

D. No locality imposing the additional tax pursuant to this section shall cease to impose such tax so long as the Northern Virginia Transportation Authority (i) is currently engaged in a transportation project within the boundaries of the locality, (ii) has entered into a binding commitment to begin a

305 *transportation project within the boundaries of the locality, or (iii) has issued bonds or incurred other*
306 *evidence of debt that has not been satisfied or paid in full and that relates to a transportation project*
307 *undertaken by the Authority within the boundaries of the locality.*

308 § 58.1-811. Exemptions.

309 A. The taxes imposed by §§ 58.1-801 and 58.1-807 shall not apply to any deed conveying real estate
310 or lease of real estate:

311 1. To an incorporated college or other incorporated institution of learning not conducted for profit,
312 where such real estate is intended to be used for educational purposes and not as a source of revenue or
313 profit;

314 2. To an incorporated church or religious body or to the trustee or trustees of any church or religious
315 body, or a corporation mentioned in § 57-16.1, where such real estate is intended to be used exclusively
316 for religious purposes, or for the residence of the minister of any such church or religious body;

317 3. To the United States, the Commonwealth, or to any county, city, town, district or other political
318 subdivision of the Commonwealth;

319 4. To the Virginia Division of the United Daughters of the Confederacy;

320 5. To any nonstock corporation organized exclusively for the purpose of owning or operating a
321 hospital or hospitals not for pecuniary profit;

322 6. To a corporation upon its organization by persons in control of the corporation in a transaction
323 which qualifies for nonrecognition of gain or loss pursuant to § 351 of the Internal Revenue Code as it
324 exists at the time of the conveyance;

325 7. From a corporation to its stockholders upon complete or partial liquidation of the corporation in a
326 transaction which qualifies for income tax treatment pursuant to § 331, 332, 333 or 337 of the Internal
327 Revenue Code as it exists at the time of liquidation;

328 8. To the surviving or new corporation, partnership or limited liability company upon merger or
329 consolidation of two or more corporations, partnerships or limited liability companies, or in a
330 reorganization within the meaning of § 368 (a) (1) (C) and (F) of the Internal Revenue Code as
331 amended;

332 9. To a subsidiary corporation from its parent corporation, or from a subsidiary corporation to a
333 parent corporation, if the transaction qualifies for nonrecognition of gain or loss under the Internal
334 Revenue Code as amended;

335 10. To a partnership or limited liability company, when the grantors are entitled to receive not less
336 than 50 percent of the profits and surplus of such partnership or limited liability company; provided that
337 the transfer to a limited liability company is not a precursor to a transfer of control of the assets of the
338 company to avoid recordation taxes;

339 11. From a partnership or limited liability company, when the grantees are entitled to receive not less
340 than 50 percent of the profits and surplus of such partnership or limited liability company; provided that
341 the transfer from a limited liability company is not subsequent to a transfer of control of the assets of
342 the company to avoid recordation taxes;

343 12. To trustees of a revocable inter vivos trust, when the grantors in the deed and the beneficiaries of
344 the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust
345 instrument, when no consideration has passed between the grantor and the beneficiaries; and to the
346 original beneficiaries of a trust from the trustees holding title under a deed in trust;

347 13. When the grantor is the personal representative of a decedent's estate or trustee under a will or
348 inter vivos trust of which the decedent was the settlor, other than a security trust defined in § 55-58.1,
349 and the sole purpose of such transfer is to comply with a devise or bequest in the decedent's will or to
350 transfer title to one or more beneficiaries after the death of the settlor in accordance with a dispositive
351 provision in the trust instrument; or

352 14. When the grantor is an organization exempt from taxation under § 501 (c) (3) of the Internal
353 Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect
354 or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise
355 would be unable to afford to buy a home through conventional means, located in a county with a
356 population of not less than 28,500 and not more than 28,650 or a city with a population of not less than
357 66,000 and not more than 70,000.

358 B. The taxes imposed by §§ 58.1-803 and 58.1-804 shall not apply to any deed of trust or mortgage:

359 1. Given by an incorporated college or other incorporated institution of learning not conducted for
360 profit;

361 2. Given by the trustee or trustees of a church or religious body or given by an incorporated church
362 or religious body, or given by a corporation mentioned in § 57-16.1;

363 3. Given by any nonstock corporation organized exclusively for the purpose of owning and/or
364 operating a hospital or hospitals not for pecuniary profit;

365 4. Given by any local governmental entity or political subdivision of the Commonwealth to secure a
366 debt payable to any other local governmental entity or political subdivision; or

5. Securing a loan made by an organization described in subdivision 14 of subsection A of this section.

C. The ~~tax~~ taxes imposed by §§ 58.1-802 and 58.1-802.1 shall not apply to any:

1. Transaction described in subdivisions 6 through 13 of subsection A of this section;

2. Instrument or writing given to secure a debt;

3. Deed conveying real estate from an incorporated college or other incorporated institution of learning not conducted for profit;

4. Deed conveying real estate from the United States, the Commonwealth or any county, city, town, district or other political subdivision thereof;

5. Conveyance of real estate to the Commonwealth or any county, city, town, district or other political subdivision thereof, if such political unit is required by law to reimburse the parties taxable pursuant to § 58.1-802 or 58.1-802.1; or

6. Deed conveying real estate from the trustee or trustees of a church or religious body or from an incorporated church or religious body, or from a corporation mentioned in § 57-16.1.

D. No recordation tax shall be required for the recordation of any deed of gift between a grantor or grantors and a grantee or grantees when no consideration has passed between the parties. Such deed shall state therein that it is a deed of gift.

E. The tax imposed by § 58.1-807 shall not apply to any lease to the United States, the Commonwealth, or any county, city, town, district or other political subdivision of the Commonwealth.

F. The taxes imposed by §§ 58.1-801, 58.1-802, 58.1-802.1, 58.1-807, 58.1-808 and 58.1-814 shall not apply to (i) any deed of gift conveying real estate or any interest therein to The Nature Conservancy or (ii) any lease of real property or any interest therein to The Nature Conservancy, where such deed of gift or lease of real estate is intended to be used exclusively for the purpose of preserving wilderness, natural or open space areas.

G. The words "trustee" or "trustees," as used in subdivision 2 of subsection A, subdivision 2 of subsection B, and subdivision 6 of subsection C, include the trustees mentioned in § 57-8 and the ecclesiastical officers mentioned in § 57-16.

H. No recordation tax levied pursuant to this chapter shall be levied on the release of a contractual right, if the release is contained within a single deed that performs more than one function, and at least one of the other functions performed by the deed is subject to the recordation tax.

I. No recordation tax levied pursuant to this chapter shall be levied on a deed, lease, easement, release, or other document recorded in connection with a concession pursuant to the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) or similar federal law.

§ 58.1-812. Payment prerequisite to recordation; exceptions; assessment and collection of tax; penalty for misrepresentation.

A. Except as otherwise provided in this chapter, no deed, deed of trust, contract or other instrument shall be admitted to record without the payment of the tax imposed thereon by law and the fee pursuant to § 58.1-817, as applicable. However, after payment of the tax imposed by this chapter, *and any tax imposed pursuant to the authority granted under § 58.1-802.1*, when an instrument is first offered for recordation, such instrument may thereafter be recorded in the office of any other clerk without the payment of any tax except any local recordation tax as provided in Article 1 (§ 58.1-3800 et seq.) of Chapter 38 of this title. Any instrument may also be recorded free of tax and fee in the office of the clerk where such instrument was originally recorded when the record containing such instrument has been destroyed.

B. The tax on every deed, deed of trust, contract or other instrument shall be determined and collected by the clerk in whose office the instrument is first offered for recordation. The clerk may ascertain the consideration of the deed or of the instrument, the actual value of the property conveyed, and the qualification of the deed or instrument for any exemption claimed by inquiry, affidavit, declaration or other extrinsic evidence acceptable to the clerk. The fee shall be \$1 on every recorded deed pursuant to § 58.1-817 and shall be collected by the clerk in whose office the deed is offered for recordation.

C. Any person who knowingly misrepresents any of the information requested by the clerk of court pursuant to this section shall be guilty of a Class 2 misdemeanor.

§ 58.1-813. Collection of tax by Department.

The Department may assess and collect any tax imposed by this chapter *or imposed pursuant to the authority granted under § 58.1-802.1*, which has remained uncollected for thirty days. The Department, prior to collecting such tax, shall give notice to the clerk of court in whose office the tax was to be collected. The Department may then proceed to assess and collect the unpaid tax in the same manner and by the same methods used for the collection of any state tax administered by the Department.

Any local tax collected hereunder in conjunction with the collection of a state tax by the Department shall be deposited into the state treasury. The Comptroller shall, by warrant drawn on the Treasurer of

Virginia, remit to the proper city or county any amounts due to such city or county.

§ 58.1-815. U.S. Route 58 Corridor Development Fund.

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 U.S. Route 58 Corridor Development Fund, consisting of the first \$40 million of annual collections of the state recordation taxes imposed by this chapter; provided, however, this dedication shall not affect the local recordation taxes under ~~§§ 58.1-802 B subsections B and C of § 58.1-802~~ and § 58.1-814. The Fund shall also include such 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. Allocations from this Fund may be paid to any authority, locality or commission for the purposes specified in § 33.1-221.1:2.

§ 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 subsections B and C of § 58.1-802~~ and § 58.1-814. 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 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, Metrorail Capital Improvements attributable to Fairfax County including Metro parking expansions, 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 28 parallel roads in Loudoun County, the Route 28/Sterling Boulevard interchange 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 123 Occoquan River Bridge, Gallows Road 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 and (ii) for Category 4 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.

§ 58.1-816.1. Transportation Improvement Program Set-aside Fund.

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 Transportation Improvement Program Set-aside Fund ("Set-aside Fund"), consisting of transfers pursuant to § 58.1-816 of annual collections of the state recordation taxes attributable to any local jurisdiction which adopts an ordinance to dedicate and use its share of state recordation tax distributions for transportation purposes; however, this dedication shall not affect the local recordation taxes under ~~§§ 58.1-802 B subsections B and C of § 58.1-802~~ and § 58.1-814. Any local jurisdiction making such an election shall transmit a copy of its ordinance to the State Treasurer at least ninety days before transfers to the Set-aside Fund are to take effect. The State Treasurer is hereby authorized to commingle the funds of the various local jurisdictions

in the Set-aside Fund, subject to the establishment of an accounting system which allows for the separate tracking of each local jurisdiction's share. The election to participate in the Set-aside Fund shall be revocable by the passage of an ordinance to that effect; however, if debt has been issued or other obligations incurred on the local jurisdiction's behalf, the election to participate shall be irrevocable so long as such bonds, or other obligations, are outstanding. A permitted revocation shall entitle the local jurisdiction to receive its remaining share, plus earnings and less the Treasurer's investment charges.

The Set-aside Fund shall also include such other funds as may be appropriated by the General Assembly from time to time and designated for the Set-aside Fund and all interest, dividends and appreciation which may accrue thereto. Any moneys remaining in the Set-aside Fund at the end of a biennium shall not revert to the general fund, but shall remain in the Set-aside Fund. Allocations from the Set-aside Fund may be paid to any authority, locality or commission for the purposes of paying the costs of any Transportation Improvement Program in which the local jurisdiction elects to participate.

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

3. That each county or city that imposes taxes or fees pursuant to § 46.2-755.1, 46.2-755.2, 58.1-605.1, 58.1-606.1, or 58.1-802.1 of the Code of Virginia shall for each fiscal year in which it imposes such taxes or fees expend or disburse for transportation purposes an amount (computed without regard to any revenues generated in the fiscal year from such taxes or fees) that is at least equal to the total amount expended or disbursed for transportation purposes by the county or city in its fiscal year that began in calendar year 2005.

4. That any revenues distributed to the Northern Virginia Transportation Authority pursuant to § 46.2-755.1, 46.2-755.2, 58.1-605.1, 58.1-606.1, or 58.1-802 of the Code of Virginia, or collected by a locality pursuant to § 58.1-802.1 of the Code of Virginia, shall not be used to calculate or reduce the share of local, federal, and state revenues otherwise available to any county or city set forth in subsection A of § 58.1-605.1 or subsection A of § 58.1-606.1 of the Code of Virginia or otherwise available to the Northern Virginia Transportation District. Further, such revenues and moneys shall not be included in any computation of, or formula for, a locality's ability to pay for public education, upon which appropriations of state revenues to local governments for public education are determined.

5. That no provision of this act shall become effective unless under legislation passed by a session of the General Assembly held in 2006 that becomes law (i) an authority is created on or after April 1, 2006 for purposes including but not limited to controlling, operating, tolling, constructing, and acquiring transportation facilities in the Hampton Roads region and (ii) beginning with the Commonwealth's 2006-2007 fiscal year and for each fiscal year thereafter, all revenues collected by the State Corporation Commission in the fiscal year from the tax imposed under Chapter 25 (§ 58.1-2500 et seq.) of Title 58.1 of the Code of Virginia are deposited into the Transportation Trust Fund established under § 33.1-23.03:1 of the Code of Virginia until the amount deposited into the Fund in the fiscal year equals the revenues collected from such tax for the immediately preceding calendar year that were attributable to any policy of motor vehicle insurance as defined in § 38.2-124 of the Code of Virginia, including any motor vehicle insurance included in a combination policy as defined in § 38.2-1921 of the Code of Virginia.