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## SENATE BILL NO. 469

Offered January 9, 2008

Prefiled January 9, 2008

*A BILL to amend and reenact §§ 58.1-605, 58.1-606, 58.1-2217, 58.1-2249, 58.1-2289, as it is currently effective and as it may become effective, 58.1-2701, as it is currently effective and as it may become effective, and 58.1-2706 of the Code of Virginia, and to repeal §§ 46.2-206.1 and 58.1-625.1 of the Code of Virginia, relating to funding for transportation by increasing state motor fuels taxes, repealing civil remedial fees on certain drivers, and repealing the sales tax on charges for labor or services for the repair of motor vehicles.*

Patron—Hanger

Referred to Committee on Finance

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

**1. That §§ 58.1-605, 58.1-606, 58.1-2217, 58.1-2249, 58.1-2289, as it is currently effective and as it may become effective, 58.1-2701, as it is currently effective and as it may become effective, and 58.1-2706 of the Code of Virginia are amended and reenacted as follows:**

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

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

B. The council of any city and the governing body of any county may levy a general retail sales tax at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall be added to the rate of the state sales tax imposed by §§ 58.1-603 and 58.1-604 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 on a local sales tax.

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

D. Any local sales tax levied under this section 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.

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

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

G. Such payments to counties are subject to the qualification that in any county wherein is situated

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59 any incorporated town constituting a special school district and operated as a separate school district  
60 under a town school board of three members appointed by the town council, the county treasurer shall  
61 pay into the town treasury for general governmental purposes the proper proportionate amount received  
62 by him in the ratio that the school age population of such town bears to the school age population of  
63 the entire county. If the school age population of any town constituting a separate school district is  
64 increased by the annexation of territory since the last preceding school age population census, such  
65 increase shall, for the purposes of this section, be added to the school age population of such town as  
66 shown by the last such census and a proper reduction made in the school age population of the county  
67 or counties from which the annexed territory was acquired.

68 H. One-half of such payments to counties are subject to the further qualification, other than as set  
69 out in subsection G above, that in any county wherein is situated any incorporated town not constituting  
70 a separate special school district which has complied with its charter provisions providing for the  
71 election of its council and mayor for a period of at least four years immediately prior to the adoption of  
72 the sales tax ordinance, the county treasurer shall pay into the town treasury of each such town for  
73 general governmental purposes the proper proportionate amount received by him in the ratio that the  
74 school age population of each such town bears to the school age population of the entire county, based  
75 on the latest statewide school census. The preceding requirement pertaining to the time interval between  
76 compliance with election provisions and adoption of the sales tax ordinance shall not apply to a tier-city.  
77 If the school age population of any such town not constituting a separate special school district is  
78 increased by the annexation of territory or otherwise since the last preceding school age population  
79 census, such increase shall, for the purposes of this section, be added to the school age population of  
80 such town as shown by the last such census and a proper reduction made in the school age population  
81 of the county or counties from which the annexed territory was acquired.

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

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

94 K. 1. Notwithstanding the other provisions of this chapter, the Hampton Roads Transportation  
95 Authority and the Northern Virginia Transportation Authority may impose a retail sales tax at the rate of  
96 5% on (i) charges for separately stated labor or services in the repair of motor vehicles and (ii) charges  
97 for the repair of a motor vehicle in cases in which the true object of the repair is a service provided  
98 within a city or county embraced by the respective Authority.

99 2. The revenue generated and collected pursuant to the tax authorized under this subsection, less the  
100 applicable portion of any refunds to taxpayers and after subtraction of the direct costs of administration  
101 by the Department, shall be deposited and held in a special trust fund under the control of the State  
102 Treasurer entitled "Special Sales and Use Tax Motor Vehicle Repair Fund." The State Treasurer on a  
103 monthly basis shall distribute the amounts deposited in the special trust fund to the Hampton Roads  
104 Transportation Authority or the Northern Virginia Transportation Authority as appropriate.

105 3. No discount under § 58.1-622 shall be allowed for the tax described under this subsection. Except  
106 as otherwise provided herein, the tax under this subsection shall be administered and collected in the  
107 same manner and subject to the same penalties as provided for the local retail sales tax.

108 § 58.1-606. To what extent and under what conditions cities and counties may levy local use tax;  
109 collection thereof by Commonwealth and return of revenues to the cities and counties.

110 A. The council of any city and the governing body of any county which has levied or may hereafter  
111 levy a city or county sales tax under § 58.1-605 may levy a city or county use tax at the rate of one  
112 percent to provide revenue for the general fund of such city or county. Such tax shall be added to the  
113 rate of the state use tax imposed by this chapter and shall be subject to all the provisions of this chapter,  
114 and all amendments thereof, and the rules and regulations published with respect thereto, except that no  
115 discount under § 58.1-622 shall be allowed on a local use tax.

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

118 1. If the city or county has previously imposed the local sales tax authorized by § 58.1-605, the local  
119 use tax may be imposed by the council or governing body by the adoption of a resolution by a majority  
120 of all the members thereof, by a recorded yea and nay vote, stating its purpose and referring to this

section, and providing that the local use tax shall become effective on the first day of a month at least 60 days after the adoption of the resolution. A certified copy of such resolution shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption. The resolution authorized by this paragraph may be adopted in the manner stated notwithstanding any other provision of law, including any charter provision.

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

C. Any local use tax levied under this section shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state use tax.

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

E. Out-of-state dealers who hold certificates of registration to collect the use tax from their customers for remittance to this Commonwealth shall, to the extent reasonably practicable, in filing their monthly use tax returns with the Tax Commissioner, break down their shipments into this Commonwealth by cities and counties so as to show the city or county of destination. If, however, the out-of-state dealer is unable accurately to assign any shipment to a particular city or county, the local use tax on the tangible personal property involved shall be remitted to the Commonwealth by such dealer without attempting to assign the shipment to any city or county.

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

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

H. 1. Notwithstanding the other provisions of this chapter, the Hampton Roads Transportation Authority and the Northern Virginia Transportation Authority may impose a retail use tax at the rate of 5% on (i) charges for separately stated labor or services for the repair of motor vehicles and (ii) charges for the repair of a motor vehicle in cases in which the true object of the repair is a service provided within a city or county embraced by the respective Authority.

2. The revenue generated and collected pursuant to the tax authorized under this subsection, less the applicable portion of any refunds to taxpayers and after subtraction of the direct costs of administration by the Department, shall be deposited and held in a special trust fund under the control of the State Treasurer entitled "Special Sales and Use Tax Motor Vehicle Repair Fund." The State Treasurer on a monthly basis shall distribute the amounts deposited in the special trust fund to the Hampton Roads Transportation Authority or the Northern Virginia Transportation Authority as appropriate.

3. No discount under ~~§ 58.1-622~~ shall be allowed for the tax described under this subsection. Except as otherwise provided herein, the tax under this subsection shall be administered and collected in the same manner and subject to the same penalties as provided for the local retail use tax.

§ 58.1-2217. Taxes levied; rate.

A. There is hereby levied a tax at the rate of ~~seventeen~~ *nineteen* and one-half cents per gallon on gasoline and gasohol.

B. (Contingent expiration date - see Editor's notes) There is hereby levied a tax at the rate of

182 ~~seventeen~~ *nineteen* and one-half cents per gallon on diesel fuel.

183 B. (Contingent effective date - see Editor's notes) There is hereby levied a tax at the rate of ~~sixteen~~  
184 *eighteen* cents per gallon on diesel fuel.

185 C. Blended fuel that contains gasoline shall be taxed at the rate levied on gasoline. Blended fuel that  
186 contains diesel fuel shall be taxed at the rate levied on diesel fuel.

187 D. There is hereby levied a tax at the rate of five cents per gallon on aviation gasoline. Any person,  
188 whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in  
189 highway vehicles any aviation gasoline shall be liable for the tax at the rate of ~~seventeen~~ *nineteen* and  
190 one-half cents per gallon, along with any penalties and interest that may accrue.

191 E. (Contingent expiration date - see Editor's notes) There is hereby levied a tax at the rate of five  
192 cents per gallon on aviation jet fuel purchased or acquired for use by a user of aviation fuel other than  
193 an aviation consumer. There is hereby levied a tax at the rate of five cents per gallon upon the first  
194 100,000 gallons of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by  
195 any aviation consumer in any fiscal year. There is hereby levied a tax at the rate of one-half cent per  
196 gallon on all aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by an  
197 aviation consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not licensed  
198 under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation  
199 jet fuel taxable under this chapter shall be liable for the tax imposed at the rate of ~~seventeen~~ *nineteen*  
200 and one-half cents per gallon, along with any penalties and interest that may accrue.

201 E. (Contingent effective date - see Editor's notes) There is hereby levied a tax at the rate of five  
202 cents per gallon on aviation jet fuel purchased or acquired for use by a user of aviation fuel other than  
203 an aviation consumer. There is hereby levied a tax at the rate of five cents per gallon upon the first  
204 100,000 gallons of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by  
205 any aviation consumer in any fiscal year. There is hereby levied a tax at the rate of one-half cent per  
206 gallon on all aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by an  
207 aviation consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not licensed  
208 under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation  
209 jet fuel taxable under this chapter shall be liable for the tax imposed at the rate of ~~sixteen~~ *eighteen* cents  
210 per gallon, along with any penalties and interest that may accrue.

211 F. In accordance with § 62.1-44.34:13, a storage tank fee is imposed on each gallon of gasoline,  
212 aviation gasoline, diesel fuel (including dyed diesel fuel), blended fuel, and heating oil sold and  
213 delivered or used in the Commonwealth.

214 § 58.1-2249. Tax on alternative fuel.

215 A. (Contingent expiration date - see Editor's notes) There is hereby levied a tax at the rate of  
216 ~~seventeen~~ *nineteen* and one-half cents per gallon on liquid alternative fuel used to operate a highway  
217 vehicle by means of a vehicle supply tank that stores fuel only for the purpose of supplying fuel to  
218 operate the vehicle. There is hereby levied a tax at a rate equivalent to ~~seventeen~~ *nineteen* and one-half  
219 cents per gallon on all other alternative fuel used to operate a highway vehicle. The Commissioner shall  
220 determine the equivalent rate applicable to such other alternative fuels.

221 A. (Contingent effective date - see Editor's notes) There is hereby levied a tax at the rate of ~~sixteen~~  
222 *eighteen* cents per gallon on liquid alternative fuel used to operate a highway vehicle by means of a  
223 vehicle supply tank that stores fuel only for the purpose of supplying fuel to operate the vehicle. There  
224 is hereby levied a tax at a rate equivalent to ~~sixteen~~ *eighteen* cents per gallon on all other alternative  
225 fuel used to operate a highway vehicle. The Commissioner shall determine the equivalent rate applicable  
226 to such other alternative fuels.

227 B. In addition to any tax imposed by this article, there is hereby levied an annual license tax of fifty  
228 dollars per vehicle on each highway vehicle that is fueled from a private source if the alternative fuels  
229 tax levied under this article has not been paid on fuel used in the vehicle. If such a highway vehicle is  
230 not in operation by January 1 of any year, the license tax shall be reduced by one-twelfth for each  
231 complete month which shall have elapsed since the beginning of such year.

232 § 58.1-2289. (Contingent expiration date - see Editor's notes) Disposition of tax revenue generally.

233 A. Unless otherwise provided in this section, all taxes and fees, including civil penalties, collected by  
234 the Commissioner pursuant to this chapter, less a reasonable amount to be allocated for refunds, shall be  
235 promptly paid into the state treasury and shall constitute special funds within the Commonwealth  
236 Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for  
237 use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds  
238 shall accrue to these funds. Except as provided in § 33.1-23.03:1, no portion of the revenue derived  
239 from taxes collected pursuant to §§ 58.1-2217, 58.1-2249 or 58.1-2701, and remaining after authorized  
240 refunds for nonhighway use of fuel, shall be used for any purpose other than the construction,  
241 reconstruction or maintenance of the roads and projects comprising the State Highway System, the  
242 Interstate System and the secondary system of state highways and expenditures directly and necessarily  
243 required for such purposes, including the retirement of revenue bonds.

Revenues collected under this chapter may be also used for (i) contributions toward the construction, reconstruction or maintenance of streets in cities and towns of such sums as may be provided by law and (ii) expenditures for the operation and maintenance of the Department of Transportation, the Department of Rail and Public Transportation, the Department of Aviation, the Virginia Port Authority, and the Department of Motor Vehicles as may be provided by law.

The Governor is hereby authorized to transfer out of such fund an amount necessary for the inspection of gasoline and motor grease measuring and distributing equipment, and for the inspection and analysis of gasoline for purity.

B. Except as provided in subsection F *and G*, the tax collected on each gallon of aviation fuel sold and delivered or used in this Commonwealth, less refunds, shall be paid into a special fund of the state treasury. Proceeds of this special fund within the Commonwealth Transportation Fund shall be disbursed upon order of the Department of Aviation, on warrants of the Comptroller, to defray the cost of the administration of the laws of this Commonwealth relating to aviation, for the construction, maintenance and improvement of airports and landing fields to which the public now has or which it is proposed shall have access, and for the promotion of aviation in the interest of operators and the public generally.

C. One-half cent of the tax collected on each gallon of fuel on which a refund has been paid for gasoline, gasohol, diesel fuel, blended fuel, or alternative fuel, for fuel consumed in tractors and unlicensed equipment used for agricultural purposes shall be paid into a special fund of the state treasury, known as the Virginia Agricultural Foundation Fund, to be disbursed to make certain refunds and defray the costs of the research and educational phases of the agricultural program, including supplemental salary payments to certain employees at Virginia Polytechnic Institute and State University, the Department of Agriculture and Consumer Services and the Virginia Truck and Ornamentals Research Station, including reasonable expenses of the Virginia Agricultural Council.

D. One and one-half cents of the tax collected on each gallon of fuel used to propel a commercial watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of the state treasury to be made available to the Board of Game and Inland Fisheries until expended for the purposes provided generally in subsection C of § 29.1-701, including acquisition, construction, improvement and maintenance of public boating access areas on the public waters of this Commonwealth and for other activities and purposes of direct benefit and interest to the boating public and for no other purpose. However, one and one-half cents per gallon on fuel used by commercial fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be used for the construction, repair, improvement and maintenance of the public docks of this Commonwealth used by said commercial watercraft. Any expenditures for the acquisition, construction, improvement and maintenance of the public docks shall be made according to a plan developed by the Virginia Marine Resources Commission.

From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for the propelling of watercraft, after deduction for lawful refunds *and after deduction for the revenues deposited into the Highway Maintenance and Operating Fund pursuant to subsection G*, there shall be paid into the state treasury for use by the Marine Resources Commission, the Virginia Soil and Water Conservation Board, the State Water Control Board, and the Commonwealth Transportation Board to (i) improve the public docks as specified in this section, (ii) improve commercial and sports fisheries in Virginia's tidal waters, (iii) make environmental improvements including, without limitation, fisheries management and habitat enhancement in the Chesapeake and its tributaries, and (iv) further the purposes set forth in § 33.1-223, a sum as established by the General Assembly.

E. Notwithstanding other provisions of this section, there shall be transferred from moneys collected pursuant to this section to a special fund within the Commonwealth Transportation Fund in the state treasury, to be used to meet the necessary expenses of the Department of Motor Vehicles, an amount equal to one percent of a sum to be calculated as follows: the tax revenues collected pursuant to this chapter, at the tax rates in effect on December 31, 1986, less refunds authorized by this chapter and less taxes collected for aviation fuels.

F. The additional revenues, less any additional refunds authorized, generated by increases in the rates of taxes under this chapter pursuant to enactments of the 2007 Session of the General Assembly shall be collected pursuant to Article 4 of this chapter and deposited into the Highway Maintenance and Operating Fund.

*G. The additional revenues, less any additional refunds authorized, generated by increases in the rates of taxes under this chapter pursuant to enactments of the 2008 Session of the General Assembly shall be collected pursuant to Article 4 (§ 58.1-2230 et seq.) of this chapter and deposited into the Highway Maintenance and Operating Fund.*

§ 58.1-2289. (Contingent effective date - see Editor's notes) Disposition of tax revenue generally.

A. Unless otherwise provided in this section, all taxes and fees, including civil penalties, collected by the Commissioner pursuant to this chapter, less a reasonable amount to be allocated for refunds, shall be

promptly paid into the state treasury and shall constitute special funds within the Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds shall accrue to these funds. Except as provided in § 33.1-23.03:1, no portion of the revenue derived from taxes collected pursuant to §§ 58.1-2217, 58.1-2249 or § 58.1-2701, and remaining after authorized refunds for nonhighway use of fuel, shall be used for any purpose other than the construction, reconstruction or maintenance of the roads and projects comprising the State Highway System, the Interstate System and the secondary system of state highways and expenditures directly and necessarily required for such purposes, including the retirement of revenue bonds.

Revenues collected under this chapter may be also used for (i) contributions toward the construction, reconstruction or maintenance of streets in cities and towns of such sums as may be provided by law and (ii) expenditures for the operation and maintenance of the Department of Transportation, the Department of Rail and Public Transportation, the Department of Aviation, the Virginia Port Authority, and the Department of Motor Vehicles as may be provided by law.

The Governor is hereby authorized to transfer out of such fund an amount necessary for the inspection of gasoline and motor grease measuring and distributing equipment, and for the inspection and analysis of gasoline for purity.

B. ~~The~~ *Except as provided in subsection F, the* tax collected on each gallon of aviation fuel sold and delivered or used in this Commonwealth, less refunds, shall be paid into a special fund of the state treasury. Proceeds of this special fund within the Commonwealth Transportation Fund shall be disbursed upon order of the Department of Aviation, on warrants of the Comptroller, to defray the cost of the administration of the laws of this Commonwealth relating to aviation, for the construction, maintenance and improvement of airports and landing fields to which the public now has or which it is proposed shall have access, and for the promotion of aviation in the interest of operators and the public generally.

C. One-half cent of the tax collected on each gallon of fuel on which ~~the a~~ refund has been paid at ~~the rate of seventeen cents per gallon, or in the case of diesel fuel, fifteen and one-half cents per gallon for gasoline, gasohol, diesel fuel, blended fuel, or alternative fuel,~~ for fuel consumed in tractors and unlicensed equipment used for agricultural purposes shall be paid into a special fund of the state treasury, known as the Virginia Agricultural Foundation Fund, to be disbursed to make certain refunds and defray the costs of the research and educational phases of the agricultural program, including supplemental salary payments to certain employees at Virginia Polytechnic Institute and State University, the Department of Agriculture and Consumer Services and the Virginia Truck and Ornamentals Research Station, including reasonable expenses of the Virginia Agricultural Council.

D. One and one-half cents of the tax collected on each gallon of fuel used to propel a commercial watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of the state treasury to be made available to the Board of Game and Inland Fisheries until expended for the purposes provided generally in subsection C of § 29.1-701, including acquisition, construction, improvement and maintenance of public boating access areas on the public waters of this Commonwealth and for other activities and purposes of direct benefit and interest to the boating public and for no other purpose. However, one and one-half cents per gallon on fuel used by commercial fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be used for the construction, repair, improvement and maintenance of the public docks of this Commonwealth used by said commercial watercraft. Any expenditures for the acquisition, construction, improvement and maintenance of the public docks shall be made according to a plan developed by the Virginia Marine Resources Commission.

From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for the propelling of watercraft, after deduction for lawful refunds *and after deduction for the revenues deposited into the Highway Maintenance and Operating Fund pursuant to subsection F*, there shall be paid into the state treasury for use by the Marine Resources Commission, the Virginia Soil and Water Conservation Board, the State Water Control Board, and the Commonwealth Transportation Board to (i) improve the public docks as specified in this section, (ii) improve commercial and sports fisheries in Virginia's tidal waters, (iii) make environmental improvements including, without limitation, fisheries management and habitat enhancement in the Chesapeake and its tributaries, and (iv) further the purposes set forth in § 33.1-223, a sum as established by the General Assembly.

E. Notwithstanding other provisions of this section, there shall be transferred from moneys collected pursuant to this section to a special fund within the Commonwealth Transportation Fund in the state treasury, to be used to meet the necessary expenses of the Department of Motor Vehicles, an amount equal to one percent of a sum to be calculated as follows: the tax revenues collected pursuant to this chapter, at the tax rates in effect on December 31, 1986, less refunds authorized by this chapter and less taxes collected for aviation fuels.

F. *The additional revenues, less any additional refunds authorized, generated by increases in the rates of taxes under this chapter pursuant to enactments of the 2008 Session of the General Assembly*

shall be collected pursuant to Article 4 (§ 58.1-2230 et seq.) of this chapter and deposited into the Highway Maintenance and Operating Fund.

§ 58.1-2701. (Contingent expiration date - see Editor's notes) Amount of tax.

A. Except as provided in subsection B, every motor carrier shall pay a road tax at a rate per gallon equivalent to ~~\$0.21~~ *three and one-half cents per gallon greater than the total tax imposed on each gallon of diesel fuel under subsection B of § 58.1-2217* calculated on the amount of motor fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of sixty degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute), used in its operations within the Commonwealth.

The tax imposed by this chapter shall be in addition to all other taxes of whatever character imposed on a motor carrier by any other provision of law.

B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles that are not registered under the International Registration Plan shall pay a fee of ~~\$150~~ \$200 per year for each qualified highway vehicle. The fee is due and payable when the vehicle registration fees are paid pursuant to the provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2.

If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the registration fee paid is authorized by law.

C. All taxes and fees paid under the provisions of this chapter shall be credited to the Highway Maintenance and Operating Fund, a special fund within the Commonwealth Transportation Fund.

§ 58.1-2701. (Contingent effective date - see Editor's notes) Amount of tax.

A. Except as provided in subsection B, every motor carrier shall pay a road tax at a rate per gallon equivalent to ~~nineteen and one-half cents~~ *three and one-half cents per gallon greater than the total tax imposed on each gallon of diesel fuel under subsection B of § 58.1-2217* calculated on the amount of motor fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of sixty degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute), used in its operations within the Commonwealth.

The tax imposed by this chapter shall be in addition to all other taxes of whatever character imposed on a motor carrier by any other provision of law.

B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles that are not registered under the International Registration Plan shall pay a fee of ~~\$100~~ \$150 per year for each qualified highway vehicle. The fee is due and payable when the vehicle registration fees are paid pursuant to the provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2.

If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the registration fee paid is authorized by law.

C. All taxes and fees paid under the provisions of this chapter shall be credited to the Highway Maintenance and Operating Fund, a special fund within the Commonwealth Transportation Fund.

§ 58.1-2706. Credit for payment of motor fuel, diesel fuel or liquefied gases tax.

A. Every motor carrier subject to the road tax shall be entitled to a credit on such tax at a rate per gallon equivalent to ~~seventeen and one-half cents per gallon~~ *the total tax imposed on each gallon of diesel fuel under subsection B of § 58.1-2217* on all motor fuel, diesel fuel and liquefied gases purchased by such carrier within the Commonwealth for use in its operations either within or without the Commonwealth and upon which the motor fuel, diesel fuel or liquefied gases tax imposed by the laws of the Commonwealth has been paid by such carrier. Evidence of the payment of such tax in such form as may be required by, or is satisfactory to, the Department shall be furnished by each carrier claiming the credit herein allowed.

B. When the amount of the credit to which any motor carrier is entitled for any quarter exceeds the amount of the tax for which such carrier is liable for the same quarter, the excess may: (i) be allowed as a credit on the tax for which such carrier would be otherwise liable for any of the eight succeeding quarters or (ii) be refunded, upon application, duly verified and presented and supported by such evidence as may be satisfactory to the Department.

C. The Department may allow a refund upon receipt of proper application and review. It shall be at the discretion of the Department to determine whether an audit is required.

D. The refund may be allowed without a formal hearing if the amount of refund is agreed to by the applicant. Otherwise, a formal hearing on the application shall be held by the Department after notice of not less than ten days to the applicant and the Attorney General.

E. Whenever any refund is ordered it shall be paid out of the Highway Maintenance and Construction Fund.

428 F. Whenever a person operating under lease to a motor carrier to perform transport services on  
429 behalf of the carrier purchases motor fuel, diesel fuel or liquefied gases relating to such services, such  
430 payments or purchases may, at the discretion of the Department, be considered payment or purchases by  
431 the carrier.

432 **2. That the Comptroller shall, as soon as practicable, draw warrants for payment by the State**  
433 **Treasurer of refunds to any person who paid any fee pursuant to § 46.2-206.1 of the Code of**  
434 **Virginia. Such refunds shall be for the full amount of any such fee paid together with the**  
435 **judgment rate of interest provided for in § 6.1-330.54 of the Code of Virginia. All agencies of the**  
436 **Commonwealth, upon request of the Comptroller, shall provide him with all requested information**  
437 **that is reasonably necessary for the payment of such refunds.**

438 **3. That § 46.2-206.1 of the Code of Virginia is repealed, and any fees imposed under such section**  
439 **that have not been collected as of July 1, 2008, shall not be subject to further collection.**

440 **4. That § 58.1-625.1 of the Code of Virginia is repealed.**