

10104097D

HOUSE BILL NO. 971**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on Appropriations
on February 10, 2010)

(Patron Prior to Substitute—Delegate Rust)

A *BILL to amend and reenact §§ 15.2-4838.1, 58.1-604.1, 58.1-608.3, 58.1-614, and 58.1-811 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 15.2-4838.01, 58.1-603.1, 58.1-604.01, and 58.1-802.2 and by adding in Title 58.1 a chapter numbered 22.1, consisting of sections numbered 58.1-2291 through 58.1-2296, relating to transportation funding and administration.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-4838.1, 58.1-604.1, 58.1-608.3, 58.1-614, and 58.1-811 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 15.2-4838.01, 58.1-603.1, 58.1-604.01, and 58.1-802.2 and by adding in Title 58.1 a chapter numbered 22.1, consisting of sections numbered 58.1-2291 through 58.1-2296, as follows:

§ 15.2-4838.01. Northern Virginia Transportation Authority Sales and Use Tax Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Northern Virginia Transportation Authority Sales and Use Tax Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All revenues dedicated to the Fund pursuant to §§ 58.1-603.1 and 58.1-604.01 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 fiscal year shall not revert to the general fund but shall remain in the Fund.

Moneys in the Fund shall be used by the Authority as provided in this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the chairman of the Authority or his designee.

§ 15.2-4838.1. Use of certain revenues by the Authority.

A. 1. All revenue received by the Authority from the taxes and fee imposed pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-802.2 and the proceeds of bonds issued pursuant to § 15.2-4839 supported by such revenue shall be used for transportation purposes benefiting only those counties and cities that are imposing the real property tax pursuant to § 58.1-3221.3 at a rate of \$0.125 per \$100 of assessed value. All revenue and proceeds of bonds under this subdivision shall be allocated pursuant to the provisions of subsections B and C.

2. All other moneys received by the Authority and the proceeds of bonds issued pursuant to § 15.2-4839 supported by such moneys shall be used by the Authority solely for transportation purposes benefiting those counties and cities that are embraced by the Authority. The transportation projects undertaken pursuant to this subdivision shall be as determined by the Authority and not constrained by the provisions of subsections B and C.

B. 1. Forty percent of the revenues under subdivision A 1 shall be distributed on a pro rata basis, with each locality's share being the total of such fees and taxes assessed or imposed by the Authority and received by the Authority that are generated or attributable to the revenues collected in the locality divided by the total of such fees and taxes assessed or imposed by the Authority and received by the Authority revenues. Of the revenues that may be distributed pursuant to this subsection (i) in the Cities of Alexandria, Fairfax, and Falls Church and the County of Arlington, the first 50% shall be used solely for urban or secondary road construction and improvements and for public transportation purposes, and (ii) in the remaining localities, the first 50% shall be used solely for urban or secondary road construction and improvements. The remainder, as determined solely by the applicable locality, shall be used either for additional urban or secondary road construction; for other transportation capital improvements which have been approved by the most recent long range transportation plan adopted by the Authority; or for public transportation purposes.

2. For road construction and improvements pursuant to this subsection, the Department of Transportation may, on a reimbursement basis, provide the locality with planning, engineering, right-of-way, and construction services for projects funded in whole by the revenues provided to the locality by the Authority.

Solely for purposes of calculating the 40% of revenues to be distributed pursuant to this subsection, the revenue generated pursuant to § 58.1-3221.3 and Article 8 (§ 15.2-2317 et seq.) of Chapter 22 of this title by the counties and cities embraced by the Authority shall be considered revenue of the Authority. None of the revenue distributed by this subsection may be used to repay debt issued before July 1, 2007. Each locality shall provide annually to the Northern Virginia Transportation Authority sufficient

HOUSE SUBSTITUTE

HB971H1

60 documentation as required by the Authority showing that the funds distributed under this subsection
61 were used as required by this subsection.

62 C. The remaining 60% of the revenues from such sources shall be used by the Authority solely for
63 transportation projects and purposes that benefit the counties and cities embraced by the Authority.

64 1. The remaining 60% of the revenues under this subsection under subdivision A 1 shall be used first
65 to pay any debt service owing on any bonds issued pursuant to § 15.2-4839, and then as follows: a
66 minimum of \$75 million each fiscal year shall be used for transit projects and services of (i) the
67 Washington Metropolitan Area Transit Authority (WMATA) benefiting the localities provided for under
68 subdivision A 1, (ii) the Virginia Railway Express benefiting the localities provided for under
69 subdivision A 1, and (iii) local public transit providers within the localities provided for under
70 subdivision A 1.

71 a. The next \$50 million each fiscal year shall be distributed to the Washington Metropolitan Area
72 Transit Authority (WMATA) and shall be used for capital improvements benefiting the area embraced
73 by the Authority for WMATA's transit service (Metro). The Authority shall first make use of that
74 portion of such annual distribution as may be necessary under the requirements of federal law for the
75 payment of federal funds to WMATA, but only if the matching federal funds are exclusive of and in
76 addition to the amount of other federal funds appropriated for such purposes and are in an amount not
77 less than the amount of such funds appropriated in the federal fiscal year ending September 30, 2007;

78 For each year after 2018 any portion of the amount distributed pursuant to this subsection may be
79 used for mass transit improvements in Prince William County;

80 b. The next \$25 million each fiscal year shall be distributed to the Virginia Railway Express for
81 operating and capital improvements, including but not limited to track lease payments, construction of
82 parking, dedicated rail on the Fredericksburg line, rolling stock, expanded service in Prince William
83 County, and service as may be needed as a result of the Base Realignment and Closure Commission's
84 action regarding Fort Belvoir.

85 2.D. All transportation projects undertaken by the Northern Virginia Transportation Authority shall be
86 completed by private contractors accompanied by performance measurement standards, and all contracts
87 shall contain a provision granting the Authority the option to terminate the contract if contractors do not
88 meet such standards. Notwithstanding the foregoing, any locality may provide engineering services or
89 right-of-way acquisition for any project with its own forces. The Authority shall avail itself of the
90 strategies permitted under the Public-Private Transportation Act (§ 56-556 et seq.) whenever feasible and
91 advantageous. The Authority is independent of any state or local entity, including the Virginia
92 Department of Transportation (VDOT) and the Commonwealth Transportation Board (CTB), but the
93 Authority, VDOT and CTB shall consult with one another to avoid duplication of efforts and, at the
94 option of the Authority, may combine efforts to complete specific projects. Notwithstanding the
95 foregoing, at the request of the Authority, VDOT may provide the Authority with engineering services
96 or right-of-way acquisition for the project with its own forces. When determining what projects to
97 construct under this subsection, the Authority shall base its decisions on the combination that (i)
98 equitably distributes the funds throughout the localities, and (ii) constructs projects that move the most
99 people or commercial traffic in the most cost-effective manner, and on such other factors as approved by
100 the Authority.

101 3. All revenues deposited to the credit of the Authority shall be used for projects benefiting the
102 localities embraced by the Authority, with each locality's total long-term benefits being approximately
103 equal to the total of the fees and taxes received by the Authority that are generated by or attributable to
104 the locality divided by the total of such fees and taxes received by the Authority.

105 D. For road construction and improvements pursuant to subsection B, the Department of
106 Transportation may, on a reimbursement basis, provide the locality with planning, engineering,
107 right-of-way, and construction services for projects funded in whole by the revenues provided to the
108 locality by the Authority.

109 § 58.1-603.1. Additional state sales tax in certain counties and cities in Northern Virginia.

110 In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in
111 each county and city embraced by the Northern Virginia Transportation Authority established under
112 § 15.2-4830 a retail sales tax at the rate of 0.50 percent. Such tax shall not be levied upon food
113 purchased for human consumption as defined in § 58.1-611.1. Such tax shall be added to the rate of the
114 state sales tax imposed in each such county and city and shall be subject to all the provisions of this
115 chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall
116 be allowed for the tax imposed under this section. Such tax shall be administered and collected by the
117 Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales
118 tax under § 58.1-603.

119 The revenue generated and collected pursuant to the tax authorized under this section, less the
120 applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller in the Northern
121 Virginia Transportation Authority Sales and Use Tax Fund established under § 15.2-4838.01.

§ 58.1-604.01. *Additional state use tax in certain counties and cities in Northern Virginia.*

In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and imposed in each county and city embraced by the Northern Virginia Transportation Authority established under § 15.2-4830 a retail use tax at the rate of 0.50 percent. Such tax shall not be levied upon food purchased for human consumption as defined in § 58.1-611.1. Such tax shall be added to the rate of the state use tax imposed in such county and city 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 section. 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 use tax under § 58.1-604.

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 by the Comptroller in the Northern Virginia Transportation Authority Sales and Use Tax Fund established under § 15.2-4838.01.

§ 58.1-604.1. Use tax on motor vehicles, machinery, tools and equipment brought into Virginia for use in performing contracts.

In addition to the use tax levied pursuant to § 58.1-604 and notwithstanding the provisions of § 58.1-611, a use tax is levied upon the storage or use of all motor vehicles, machines, machinery, tools or other equipment brought, imported or caused to be brought into this Commonwealth for use in constructing, building or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or water system, drainage or dredging system, railway system, reservoir or dam, hydraulic or power plant, transmission line, tower, dock, wharf, excavation, grading, or other improvement or structure, or any part thereof. The rate of tax is ~~three and one-half percent through midnight on July 31, 2004, and four percent beginning on and after August 1, 2004,~~ on all tangible personal property except motor vehicles, which shall be taxed at the rate of three percent; aircraft, which shall be taxed at the rate of two percent; and watercraft, which shall be taxed at the rate of two percent with a maximum tax of \$1,000. *However, the total rate of the state use tax in any county or city for which the tax under § 58.1-604.01 is imposed shall be 4.5 percent on all tangible personal property except motor vehicles, which shall be taxed at the rate of three percent; aircraft, which shall be taxed at the rate of two percent; and watercraft, which shall be taxed at the rate of two percent with a maximum tax of \$1,000.*

For purposes of this section ~~the words~~, "motor vehicle" means any vehicle ~~which that~~ is self-propelled and designed primarily for use upon the highways, any vehicle ~~which that~~ is propelled by electric power obtained from trolley wires but not operated upon rails, and any vehicle designed to run upon the highways which is pulled by a self-propelled vehicle, but shall not include any implement of husbandry, farm tractor, road construction or maintenance machinery or equipment, special mobile equipment or any vehicle designed primarily for use in work off the highway.

The tax shall be computed on the basis of such proportion of the original purchase price of such property as the duration of time of use in ~~this the~~ Commonwealth bears to the total useful life thereof. For purposes of this section, ~~the word~~ "use" means use, storage, consumption and "stand-by" time occasioned by weather conditions, controversies or other causes. The tax shall be computed upon the basis of the relative time each item of equipment is in ~~this the~~ Commonwealth rather than upon the basis of actual use. In the absence of satisfactory evidence as to the period of use intended in ~~this the~~ Commonwealth, it will be presumed that such property will remain in ~~this the~~ Commonwealth for the remainder of its useful life, which shall be determined in accordance with the experiences and practices of the building and construction trades.

A transaction taxed under §§ 58.1-604, 58.1-605, 58.1-1402, 58.1-1502, or § 58.1-2402 shall not also be taxed under this section, nor shall the same transaction be taxed more than once under any section.

§ 58.1-608.3. Entitlement to certain sales tax revenues.

A. As used in this section, the following words and terms have the following meanings, unless some other meaning is plainly intended:

"Bonds" means any obligations of a municipality for the payment of money.

"Cost," as applied to any public facility or to extensions or additions to any public facility, includes:

(i) the purchase price of any public facility acquired by the municipality or the cost of acquiring all of the capital stock of the corporation owning the public facility and the amount to be paid to discharge any obligations in order to vest title to the public facility or any part of it in the municipality; (ii) expenses incident to determining the feasibility or practicability of the public facility; (iii) the cost of plans and specifications, surveys and estimates of costs and of revenues; (iv) the cost of all land, property, rights, easements and franchises acquired; (v) the cost of improvements, property or equipment; (vi) the cost of engineering, legal and other professional services; (vii) the cost of construction or reconstruction; (viii) the cost of all labor, materials, machinery and equipment; (ix) financing charges; (x) interest before and during construction and for up to one year after completion of construction; (xi) start-up costs and operating capital; (xii) payments by a municipality of its share of the

183 cost of any multijurisdictional public facility; (xiii) administrative expense; (xiv) any amounts to be
184 deposited to reserve or replacement funds; and (xv) other expenses as may be necessary or incident to
185 the financing of the public facility. Any obligation or expense incurred by the public facility in
186 connection with any of the foregoing items of cost may be regarded as a part of the cost.

187 "Municipality" means any county, city, town, authority, commission, or other public entity.

188 "Public facility" means (i) any auditorium, coliseum, convention center, sports facility that is
189 designed for use primarily as a baseball stadium for a minor league professional baseball affiliated team
190 or structures attached thereto, or conference center, which is owned by a Virginia county, city, town,
191 authority, or other public entity and where exhibits, meetings, conferences, conventions, seminars, or
192 similar public events may be conducted; (ii) any hotel which is owned by a foundation whose sole
193 purpose is to benefit a state-supported university and which is attached to and is an integral part of such
194 facility, together with any lands reasonably necessary for the conduct of the operation of such events; or
195 (iii) any hotel which is attached to and is an integral part of such facility. However, such public facility
196 must be located in the City of Hampton, City of Newport News, City of Norfolk, City of Portsmouth,
197 City of Richmond, City of Roanoke, City of Salem, City of Staunton, City of Suffolk, or City of
198 Virginia Beach. Any property, real, personal, or mixed, which is necessary or desirable in connection
199 with any such auditorium, coliseum, convention center, baseball stadium or conference center, including,
200 without limitation, facilities for food preparation and serving, parking facilities, and administration
201 offices, is encompassed within this definition. However, structures commonly referred to as "shopping
202 centers" or "malls" shall not constitute a public facility hereunder. A public facility shall not include
203 residential condominiums, townhomes, or other residential units. In addition, only a new public facility,
204 or a public facility ~~which that~~ will undergo a substantial and significant renovation or expansion, shall
205 be eligible under subsection B ~~of this section~~. A new public facility is one whose construction began
206 after December 31, 1991. A substantial and significant renovation entails a project whose cost is at least
207 50 percent of the original cost of the facility being renovated and shall have begun after December 31,
208 1991. A substantial and significant expansion entails an increase in floor space of at least 50 percent
209 over that existing in the preexisting facility and shall have begun after December 31, 1991; or an
210 increase in floor space of at least 10 percent over that existing in a public facility that qualified as such
211 under this section and was constructed after December 31, 1991.

212 "Sales tax revenues" means such tax collections realized under the Virginia Retail Sales and Use Tax
213 Act (§ 58.1-600 et seq.) ~~of this title~~, as limited herein. "Sales tax revenues" does not include the revenue
214 generated by (i) the one-half percent sales and use tax increase enacted by the 1986 Special Session of
215 the General Assembly ~~which that~~ shall be paid to the Transportation Trust Fund as defined in
216 § 33.1-23.03:1, ~~nor shall it include~~ (ii) the one percent of the state sales and use tax revenue distributed
217 among the counties and cities of the Commonwealth pursuant to subsection D of § 58.1-638 on the basis
218 of school age population, *or (iii) the taxes under §§ 58.1-603.1 and 58.1-604.01*. For a public facility
219 that is a sports facility, "sales tax revenues" shall include such revenues generated by transactions taking
220 place upon the premises of a baseball stadium or structures attached thereto.

221 B. Any municipality which has issued bonds (i) after December 31, 1991, but before January 1,
222 1996, (ii) on or after January 1, 1998, but before July 1, 1999, (iii) on or after January 1, 1999, but
223 before July 1, 2001, (iv) on or after July 1, 2000, but before July 1, 2003, (v) on or after July 1, 2001,
224 but before July 1, 2005, (vi) on or after July 1, 2004, but before July 1, 2007, or (vii) on or after July
225 1, 2009, but before July 1, 2012, to pay the cost, or portion thereof, of any public facility shall be
226 entitled to all sales tax revenues generated by transactions taking place in such public facility. Such
227 entitlement shall continue for the lifetime of such bonds, which entitlement shall not exceed 35 years,
228 and all such sales tax revenues shall be applied to repayment of the bonds. The State Comptroller shall
229 remit such sales tax revenues to the municipality on a quarterly basis, subject to such reasonable
230 processing delays as may be required by the Department of Taxation to calculate the actual net sales tax
231 revenues derived from the public facility. The State Comptroller shall make such remittances to eligible
232 municipalities, as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail
233 Sales and Use Tax Act (§ 58.1-600 et seq.). No such remittances shall be made until construction is
234 completed and, in the case of a renovation or expansion, until the governing body of the municipality
235 has certified that the renovation or expansion is completed.

236 C. Nothing in this section shall be construed as authorizing the pledging of the faith and credit of the
237 Commonwealth of Virginia, or any of its revenues, for the payment of any bonds. Any appropriation
238 made pursuant to this section shall be made only from sales tax revenues derived from the public
239 facility for which bonds may have been issued to pay the cost, in whole or in part, of such public
240 facility.

241 § 58.1-614. Vending machine sales.

242 A. Notwithstanding the provisions of §§ 58.1-603 and 58.1-604, whenever a dealer makes sales of
243 tangible personal property through vending machines, or in any other manner making collection of the
244 tax impractical, as determined by the Tax Commissioner, such dealer shall be required to report his

wholesale purchases for sale at retail from vending machines and shall be required to remit an amount based on ~~four and one-half percent through midnight on July 31, 2004, and five percent beginning on and after August 1, 2004,~~ of such wholesale purchases. *However, any dealer located in any county or city for which the taxes under §§ 58.1-603.1 and 58.1-604.01 are imposed shall be required to remit an amount based on 5.5 percent of such wholesale purchases.*

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

C. The provisions of subsections A and B ~~of this section~~ shall not be applicable to vending machine operators all of whose machines are under contract to nonprofit organizations. Such operators shall report only the gross receipts from machines selling items for more than 10 cents and shall be required to remit an amount based on a percentage of their remaining gross sales established by the Tax Commissioner to take into account the inclusion of sales tax.

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

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

§ 58.1-802.2. *Regional congestion relief fee.*

In addition to any other tax or fee imposed under the provisions of this chapter, a fee, delineated as the "regional congestion relief fee," is hereby imposed on each deed, instrument, or writing by which lands, tenements, or other realty located in any county or city embraced by the Northern Virginia Transportation Authority established pursuant to § 15.2-4830 is sold and 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 fee, when the consideration or value of the interest, whichever is greater, equals or exceeds \$100, shall be \$0.40 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 fee imposed by this section shall be paid by the grantor, or any person who signs on behalf of the grantor, of any deed, instrument, or writing subject to the fee imposed by this section.

Fees imposed by this section shall be collected by the clerk of the court and deposited into the state treasury; as soon as practicable, such fees shall then be transferred to the Northern Virginia Transportation Authority.

§ 58.1-811. Exemptions.

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

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

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

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

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

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

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

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

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

9. To a subsidiary corporation from its parent corporation, or from a subsidiary corporation to a

parent corporation, if the transaction qualifies for nonrecognition of gain or loss under the Internal Revenue Code as amended;

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

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

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

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

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

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

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

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

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

4. Given by any local governmental entity or political subdivision of the Commonwealth to secure a 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 imposed by § 58.1-802 *and the fees imposed by § 58.1-802.2* 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 subject to the fee under § 58.1-802.2*; 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 *and fees* imposed by §§ 58.1-801, 58.1-802, 58.1-802.2, 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

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.

CHAPTER 22.1.

TRANSPORTATION INFRASTRUCTURE USER FEE.

§ 58.1-2291. Definitions.

"Distributor" means (i) any person engaged in the business of selling fuels in the Commonwealth who brings, or causes to be brought, into the Commonwealth from outside the Commonwealth any fuels for sale or any other person engaged in the business of selling fuels in the Commonwealth; (ii) any person who makes, manufactures, fabricates, processes, or stores fuels in the Commonwealth for sale in the Commonwealth; or (iii) any person engaged in the business of selling fuels outside the Commonwealth who ships or transports fuels to any person in the business of selling fuels in the Commonwealth.

"Fuel" means any fuel subject to tax under Chapter 22 (§ 58.1-2200 et seq.).

"Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other legal entity.

"Retail dealer" means any person who sells fuels to a consumer or to any person for any purpose other than resale.

§ 58.1-2292. Rules and regulations.

The Tax Commissioner shall promulgate rules and regulations for the registration of distributors and dealers and the procedures for filing returns for the payment of the fee imposed pursuant to this chapter.

§ 58.1-2293. Fee on fuel sold in the Commonwealth.

A. In addition to all other taxes and fees now imposed by law, there is hereby imposed a transportation infrastructure user fee upon every distributor who engages in the business of selling fuels at wholesale to retail dealers for retail sale in the Commonwealth.

The fee shall be imposed on the sales price charged by a distributor for fuels sold to a retail dealer for retail sale in the Commonwealth at a rate of one percent beginning the first day of the third month following six consecutive months in which the unemployment rate in the Commonwealth is equal to or lower than it was in January 2008. Such rate shall increase by one percent on each of the four consecutive anniversaries of the beginning date. Such fee shall be imposed at the time of the sale by the distributor to the retail dealer. The fee imposed by this chapter shall be paid by the distributor, but the distributor shall separately state the amount of the fee and add such fee to the sales price or charge. Thereafter, such fee shall be a debt from the retail dealer until paid and shall be recoverable at law in the same manner as other debts.

B. Every distributor collecting the fee imposed under this chapter shall file a monthly return no later than the twentieth of each month, on a form prescribed by the Department, covering the sale of fuels by such distributor during the preceding month for which a fee is imposed pursuant to subsection A.

For purposes of compensating a distributor for accounting for and remitting the fee imposed by this chapter, such distributor shall be allowed to deduct two percent of the fee otherwise due in submitting his return and paying the amount due by him if the amount is not delinquent at the time of payment.

§ 58.1-2294. Exclusion from professional license tax.

The amount of the fee imposed by this chapter and collected by a distributor in any taxable year shall be excluded from gross receipts for purposes of any tax imposed under Chapter 37 (§ 58.1-3700 et seq.).

§ 58.1-2295. Disposition of fees.

All fees paid to the Commissioner pursuant to this chapter, after subtraction of the direct costs of administration by the Department, shall be allocated among special subfunds of the Highway Maintenance and Operating Fund entitled "Special Fund Account of the Highway Construction District of" according to the highway construction district in which the fuel is sold by the distributor to the retail dealer. The amounts deposited in the special funds shall be used solely for highway and road maintenance in the applicable highway construction district.

§ 58.1-2296. Disclosure of information; penalties.

For purposes of administering the fee levied under this chapter, the Commissioner, upon written request, is authorized to provide to the finance officer of any city or county who is charged with administering the fee such information as may be necessary for the performance of official duties. Any person to whom information is provided pursuant to this section shall be subject to the prohibitions and penalties prescribed in § 58.1-3.

2. That no provision of the first enactment shall become effective until the first day of the third

429 month following six consecutive months in which the unemployment rate in the Commonwealth is
430 equal to or lower than it was in January 2008.

431 3. That all additional net revenues collected by virtue of the provisions in § 58.1-2293 in the first
432 enactment shall be used solely for highway maintenance.

433 4. That the revenues generated by the provisions of this act shall not be used to calculate or
434 reduce the share of local, federal, and state revenues otherwise available to participating
435 jurisdictions. Further, such revenues and moneys shall not be included in any computation of, or
436 formula for, a locality's ability to pay for public education, upon which appropriations of state
437 revenues to local governments for public education are determined.

438 5. That this act shall be known as the "Comprehensive Transportation and Job Creation Act of
439 2010."

440 6. That should any portion of this act be held unconstitutional by a court of competent
441 jurisdiction, the remaining portions of this act shall remain in effect.