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HOUSE BILL NO. 971

Offered January 13, 2010

Prefiled January 13, 2010

A BILL to amend and reenact §§ 58.1-604.1, 58.1-608.3, and 58.1-614 of the Code of Virginia, and to amend the Code of Virginia by adding sections numbered 15.2-4838.01, 30-134.1, 58.1-603.1, and 58.1-604.01, 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.

Patrons—Rust, May, Watts and Kory

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-604.1, 58.1-608.3, 58.1-614, 58.1-2217, 58.1-2249, 58.1-2289, 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 and that the Code of Virginia is amended by adding sections numbered 15.2-4838.01, 30-134.1, 58.1-603.1, and 58.1-604.01, 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 for 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.

§ 30-134.1. Performance audit of transportation programs.

A. The Auditor of Public Accounts shall administer an operational and programmatic performance audit focusing on the agencies within the Transportation Secretariat, with primary emphasis on the Department of Transportation and the Department of Rail and Public Transportation. The purpose of this audit shall be to provide an objective and independent cost savings assessment of the Commonwealth's organizational structure and the efficiency and effectiveness of the Commonwealth's transportation programs in order to provide information to the Governor and the General Assembly on ways to reduce duplication of effort and implement cost saving measures and programmatic efficiencies in the operation of state transportation programs. In order to achieve its overall purpose, the audit may consist of a series of concurrent audits concentrating on specified categories or groupings.

The audit shall be conducted by a private management consulting firm with experience in conducting governmental performance audits. A final report on the findings of the performance audit shall be submitted to the Joint Commission on Transportation Accountability and the Governor no later than December 31, 2010.

B. At a minimum, the report shall identify any deficiencies in the current processes for distributing staffing and funding among maintenance, administration, operations, and engineering activities at the respective departments as well as the efficiency of the current distribution of in-house and out-sourced work by activity and transportation district.

C. The report shall consist of detailed findings and recommendations, including but not limited to the following subject areas:

1. Improvements that may result in both increased efficiency and cost savings in programs and services including organization structure and staffing levels;

2. Identification and recognition of best practices;

3. Funding for programs and services that may be eliminated or reduced;

4. Analysis of current asset management activities that are less financially advantageous to the Commonwealth than maintenance of effort approaches;

5. Programs and services that may be enhanced, consolidated, reduced, eliminated, or transferred to the private sector;

6. Identification of gaps and overlaps in programs and services and suggestions for improving,

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59 *blending, or separating of functions to correct any identified gaps or overlaps and reduce duplication of*
60 *effort;*

61 *7. Changes to the definition of activities undertaken by the departments, particularly with respect to*
62 *the definition of maintenance of transportation infrastructure;*

63 *8. Methods to verify the reliability and validity of performance data, self-assessments, and*
64 *performance-measurement systems used by the departments; and*

65 *9. Amendment or repeal of statutes, regulations, rules, and policy directives necessary to ensure that*
66 *the departments carry out their statutory responsibilities.*

67 *D. Any monetary savings realized from the implementation of recommendations of the performance*
68 *audit shall be applied to the Highway Maintenance and Operating Fund.*

69 *E. The audit shall take into consideration results of any prior studies, audits, or reviews conducted*
70 *by (i) the General Assembly, the Joint Legislative Audit and Review Commission, or the Auditor of*
71 *Public Accounts; (ii) any Governor-appointed commission or other like entity; or (iii) any other*
72 *independent entity that addresses the structure and operation of state government and has identified*
73 *monetary savings, reduced duplication of effort, or efficiencies leading to a reduction in costs.*

74 *§ 58.1-603.1. Additional state sales tax in certain counties and cities in Northern Virginia.*

75 *In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in*
76 *each county and city embraced by the Northern Virginia Transportation Authority established under*
77 *§ 15.2-4830, a retail sales tax at the rate of 0.50 percent. Such tax shall not be levied upon food*
78 *purchased for human consumption as defined in § 58.1-611.1. Such tax shall be added to the rate of the*
79 *state sales tax imposed in each such county and city and shall be subject to all the provisions of this*
80 *chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall*
81 *be allowed for the tax imposed under this section. Such tax shall be administered and collected by the*
82 *Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales*
83 *tax under § 58.1-603.*

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

87 *§ 58.1-604.01. Additional state use tax in certain counties and cities in Northern Virginia.*

88 *In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and imposed in*
89 *each county and city embraced by the Northern Virginia Transportation Authority established under*
90 *§ 15.2-4830, a retail use tax at the rate of 0.50 percent. Such tax shall not be levied upon food*
91 *purchased for human consumption as defined in § 58.1-611.1. Such tax shall be added to the rate of the*
92 *state use tax imposed in such county and city and shall be subject to all the provisions of this chapter*
93 *and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be*
94 *allowed for the tax described under this section. Such tax shall be administered and collected by the*
95 *Tax Commissioner in the same manner and subject to the same penalties as provided for the state use*
96 *tax under § 58.1-604.*

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

100 *§ 58.1-604.1. Use tax on motor vehicles, machinery, tools and equipment brought into Virginia for*
101 *use in performing contracts.*

102 *In addition to the use tax levied pursuant to § 58.1-604 and notwithstanding the provisions of*
103 *§ 58.1-611, a use tax is levied upon the storage or use of all motor vehicles, machines, machinery, tools*
104 *or other equipment brought, imported or caused to be brought into this Commonwealth for use in*
105 *constructing, building or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or*
106 *water system, drainage or dredging system, railway system, reservoir or dam, hydraulic or power plant,*
107 *transmission line, tower, dock, wharf, excavation, grading, or other improvement or structure, or any*
108 *part thereof. The rate of tax is ~~three and one-half percent through midnight on July 31, 2004, and four~~*
109 *percent ~~beginning on and after August 1, 2004,~~ on all tangible personal property except motor vehicles,*
110 *which shall be taxed at the rate of three percent; aircraft, which shall be taxed at the rate of two*
111 *percent; and watercraft, which shall be taxed at the rate of two percent with a maximum tax of \$1,000.*
112 *However, the total rate of the state use tax in any county or city for which the tax under § 58.1-604.01*
113 *is imposed shall be 4.5 percent on all tangible personal property except motor vehicles, which shall be*
114 *taxed at the rate of three percent; aircraft, which shall be taxed at the rate of two percent; and*
115 *watercraft, which shall be taxed at the rate of two percent with a maximum tax of \$1,000.*

116 *For purposes of this section the words, "motor vehicle" means any vehicle which is self-propelled*
117 *and designed primarily for use upon the highways, any vehicle which is propelled by electric power*
118 *obtained from trolley wires but not operated upon rails, and any vehicle designed to run upon the*
119 *highways which is pulled by a self-propelled vehicle, but shall not include any implement of husbandry,*
120 *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 cost of any multijurisdictional public facility; (xiii) administrative expense; (xiv) any amounts to be deposited to reserve or replacement funds; and (xv) other expenses as may be necessary or incident to the financing of the public facility. Any obligation or expense incurred by the public facility in connection with any of the foregoing items of cost may be regarded as a part of the cost.

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

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

"Sales tax revenues" means such tax collections realized under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) of this title, as limited herein. "Sales tax revenues" does not include the revenue generated by (i) the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly which shall be paid to the Transportation Trust Fund as defined in § 33.1-23.03:1, ~~nor shall it include~~ (ii) the one percent of the state sales and use tax revenue distributed among the

182 counties and cities of the Commonwealth pursuant to subsection D of § 58.1-638 on the basis of school
183 age population, *and (iii) the taxes under §§ 58.1-603.1 and 58.1-604.01.* For a public facility that is a
184 sports facility, "sales tax revenues" shall include such revenues generated by transactions taking place
185 upon the premises of a baseball stadium or structures attached thereto.

186 B. Any municipality which has issued bonds (i) after December 31, 1991, but before January 1,
187 1996, (ii) on or after January 1, 1998, but before July 1, 1999, (iii) on or after January 1, 1999, but
188 before July 1, 2001, (iv) on or after July 1, 2000, but before July 1, 2003, (v) on or after July 1, 2001,
189 but before July 1, 2005, (vi) on or after July 1, 2004, but before July 1, 2007, or (vii) on or after July
190 1, 2009, but before July 1, 2012, to pay the cost, or portion thereof, of any public facility shall be
191 entitled to all sales tax revenues generated by transactions taking place in such public facility. Such
192 entitlement shall continue for the lifetime of such bonds, which entitlement shall not exceed 35 years,
193 and all such sales tax revenues shall be applied to repayment of the bonds. The State Comptroller shall
194 remit such sales tax revenues to the municipality on a quarterly basis, subject to such reasonable
195 processing delays as may be required by the Department of Taxation to calculate the actual net sales tax
196 revenues derived from the public facility. The State Comptroller shall make such remittances to eligible
197 municipalities, as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail
198 Sales and Use Tax Act (§ 58.1-600 et seq.). No such remittances shall be made until construction is
199 completed and, in the case of a renovation or expansion, until the governing body of the municipality
200 has certified that the renovation or expansion is completed.

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

206 § 58.1-614. Vending machine sales.

207 A. Notwithstanding the provisions of §§ 58.1-603 and 58.1-604, whenever a dealer makes sales of
208 tangible personal property through vending machines, or in any other manner making collection of the
209 tax impractical, as determined by the Tax Commissioner, such dealer shall be required to report his
210 wholesale purchases for sale at retail from vending machines and shall be required to remit an amount
211 based on ~~four and one-half percent through midnight on July 31, 2004, and five percent beginning on~~
212 ~~and after August 1, 2004,~~ of such wholesale purchases. *However, any dealer located in any county or*
213 *city for which the tax under §§ 58.1-603.1 and 58.1-604.01 are imposed shall be required to remit an*
214 *amount based on 5.5 percent of such wholesale purchases.*

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

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

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

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

231 § 58.1-802.2. *Regional congestion relief fee.*

232 *In addition to any other tax or fee imposed under the provisions of this chapter, a fee, delineated*
233 *as the "Regional congestion relief fee," is hereby imposed on each deed, instrument, or writing by which*
234 *lands, tenements, or other realty located in any county or city embraced by the Northern Virginia*
235 *Transportation Authority established pursuant to § 15.2-4830 is sold and is granted, assigned,*
236 *transferred, or otherwise conveyed to or vested in the purchaser or any other person, by such*
237 *purchaser's direction. The rate of the fee, when the consideration or value of the interest, whichever is*
238 *greater, equals or exceeds \$100, shall be \$0.40 for each \$100 or fraction thereof, exclusive of the value*
239 *of any lien or encumbrance remaining thereon at the time of the sale, whether such lien is assumed or*
240 *the realty is sold subject to such lien or encumbrance.*

241 *The fee imposed by this section shall be paid by the grantor, or any person who signs on behalf of*
242 *the grantor, of any deed, instrument, or writing subject to the fee imposed by this section.*

243 *Fees imposed by this section shall be collected by the clerk of the court and deposited into the state*

treasury, and then, as soon as practicable such fees shall 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

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

307 C. The tax imposed by § 58.1-802 *and the fees imposed by § 58.1-802.2* shall not apply to any:

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

309 2. Instrument or writing given to secure a debt;

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

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

314 5. Conveyance of real estate to the Commonwealth or any county, city, town, district or other
315 political subdivision thereof, if such political unit is required by law to reimburse the parties taxable
316 pursuant to § 58.1-802 *or subject to the fee under § 58.1-802.2*; or

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

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

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

324 F. The taxes *and fees* imposed by §§ 58.1-801, 58.1-802, 58.1-802.2, 58.1-807, 58.1-808 and
325 58.1-814 shall not apply to (i) any deed of gift conveying real estate or any interest therein to The
326 Nature Conservancy or (ii) any lease of real property or any interest therein to The Nature Conservancy,
327 where such deed of gift or lease of real estate is intended to be used exclusively for the purpose of
328 preserving

329 § 58.1-811. Exemptions.

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

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

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

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

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

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

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

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

349 8. To the surviving or new corporation, partnership, limited partnership, business trust, or limited
350 liability company upon a merger or consolidation to which two or more such entities are parties, or in a
351 reorganization within the meaning of § 368(a)(1)(C) and (F) of the Internal Revenue Code as amended;

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

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

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

363 12. To trustees of a revocable inter vivos trust, when the grantors in the deed and the beneficiaries of
364 the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust
365 instrument, when no consideration has passed between the grantor and the beneficiaries; and to the
366 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.

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, 58.1-807, 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.

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.

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

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

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

433 § 58.1-2292. Rules and regulations.

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

437 § 58.1-2293. Fee on fuel sold in the Commonwealth.

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

441 The fee shall be imposed at a rate of 1 percent of the sales price charged by a distributor for fuels
442 sold to a retail dealer for retail sale in the Commonwealth. Such fee shall be imposed at the time of the
443 sale by the distributor to the retail dealer. The fee imposed by this Chapter shall be paid by the
444 distributor, but the distributor shall separately state the amount of the fee and add such fee to the sales
445 price or charge. Thereafter, such fee shall be a debt from the retail dealer until paid and shall be
446 recoverable at law in the same manner as other debts.

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

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

453 § 58.1-2294. Exclusion from professional license tax.

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

457 § 58.1-2295. Disposition of tax revenues.

458 All fees paid to the Commissioner pursuant to this Chapter, after subtraction of the direct costs of
459 administration by the Department, shall be deposited in a special sub-fund of the Highway Maintenance
460 and Highway Fund entitled the "Special Fund Account of the Highway Construction District of

461 . " The amounts deposited in the special fund shall be used solely for highway and road maintenance in
462 the applicable highway construction district.

463 § 58.1-2296. Disclosure of information; penalties.

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

469 2. That no provision of the first enactment, except adding § 30-134.1 to the Code of Virginia,
470 shall become effective until the first day of the third month following six consecutive months in
471 which the unemployment rate in the Commonwealth is equal to or lower than it was in January
472 2008.

473 3. That the costs to conduct the audit required by the provisions of this act adding § 30-134.1 to
474 the Code of Virginia shall be funded from existing appropriations to agencies for which the
475 Secretary of Transportation is responsible under § 2.2-228 of the Code of Virginia, as determined
476 by the Secretary of Transportation, and shall not exceed \$4 million. The Auditor of Public
477 Accounts shall issue a Request for Proposals to initiate the procurement process for the private
478 consultant for such audit within 30 days of the passage of this act. The procurement of such
479 consultant shall not be subject to § 2.2-4304 of the Code of Virginia but shall be based on the
480 competitive principles.

481 4. That all additional net revenues collected by virtue of provisions in the first enactment
482 increasing motor fuels tax rates shall be used solely for highway maintenance.

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

488 6. That this act shall be known as the "Comprehensive Transportation and Job Creation Act of
489 2010."

490 7. That should any portion of this act be held unconstitutional by a court of competent
491 jurisdiction, the remaining portions of this act shall remain in effect.
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HB971