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SENATE BILL NO. 1295

Offered January 12, 2011

Prefiled January 12, 2011

A BILL to amend and reenact §§ 33.1-23.03:10, 58.1-638, 58.1-2217, 58.1-2249, 58.1-2289, as it is currently effective and as it may become effective, 58.1-2402, 58.1-2425, 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 amend the Code of Virginia by adding in Title 33.1 a chapter numbered 10.3, consisting of sections numbered 33.1-391.17, 33.1-391.18, and 33.1-391.19, and by adding in Chapter 22 of Title 58.1 an article numbered 8.1, consisting of a section numbered 58.1-2288.1, relating to funding for transportation.

Patron—Miller, J.C.

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-23.03:10, 58.1-638, 58.1-2217, 58.1-2249, 58.1-2289, as it is currently effective and as it may become effective, 58.1-2402, 58.1-2425, 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 in Title 33.1 a chapter numbered 10.3, consisting of sections numbered 33.1-391.17, 33.1-391.18, and 33.1-391.19, and by adding in Chapter 22 of Title 58.1 an article numbered 8.1, consisting of a section numbered 58.1-2288.1, as follows:

§ 33.1-23.03:10. Tolls for use of Interstate Highway System components.

A. Notwithstanding any contrary provision of this title and in accordance with all applicable federal and state statutes and requirements, the Commonwealth Transportation Board may impose and collect tolls from all classes of vehicles in amounts established by the Board for the use of any component of the Interstate Highway System within the Commonwealth. However, prior approval of the General Assembly shall be required prior to the imposition and collection of any toll for use of all or any portion of Interstate Route 81. Such funds so collected shall be deposited into the Transportation Trust Fund established pursuant to § 33.1-23.03:1, subject to allocation by the Board as provided in this section. Subject to receipt of the requisite federal authorization, the Commonwealth Transportation Board shall impose and collect a toll of \$1 per axle on every vehicle entering the Commonwealth from the state of North Carolina via Interstate Route 85 and Interstate Route 95.

B. The toll facilities authorized by this section shall be subject to the provisions of federal law for the purpose of tolling motor vehicles to finance interstate construction and reconstruction, promote efficiency in the use of highways, reduce traffic congestion, improve air quality and for such other purposes as may be permitted by federal law.

C. In order to mitigate traffic congestion in the vicinity of the toll facilities, no toll facility shall be operated without high-speed automated toll collection technology designed to allow motorists to travel through the toll facilities without stopping to make payments. Nothing in this subsection shall be construed to prohibit a toll facility from retaining means of non-automated toll collection in some lanes of the facility. The Board shall also consider traffic congestion and mitigation thereof and the impact on local traffic movement as factors in determining the location of the toll facilities authorized pursuant to this section.

D. The revenues collected from each toll facility established pursuant to this section shall be deposited into segregated subaccounts in the Transportation Trust Fund and may be allocated by the Commonwealth Transportation Board as the Board deems appropriate to:

1. Pay or finance all or part of the costs of programs or projects, including without limitation the costs of planning, operation, maintenance and improvements incurred in connection with the toll facility provided that such allocations shall be limited to programs and projects that are reasonably related to or benefit the users of the toll facility. The priorities of metropolitan planning organizations, planning district commissions, local governments, and transportation corridors shall be considered by the Board in making project allocations from such revenues deposited into the Transportation Trust Fund.

2. Repay funds from the Toll Facilities Revolving Account or the Transportation Partnership Opportunity Fund.

3. Pay the Board's reasonable costs and expenses incurred in the administration and management of the Toll Facility.

CHAPTER 10.3.

HIGHWAY MAINTENANCE FUNDING FROM GROWTH AT THE PORTS OF THE COMMONWEALTH.

§ 33.1-391.17. Revenues from growth at Hampton Roads cargo marine terminals used for highway

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59 maintenance.

60 A. As used in this section, unless the context requires a different meaning:

61 "Base number of cargo containers" means the cargo containers in the Commonwealth's fiscal year
62 beginning July 1, 2010.

63 "Cargo containers" means the number of cargo containers loaded onto, or unloaded from, ships in
64 the ports for commerce in a fiscal year, measured in 20-foot-equivalent units.

65 "Net revenues" means the gross revenues less the applicable portion of any refunds.

66 "Ports" means the public and private general cargo marine terminals located in Hampton Roads.

67 "State tax revenues" means the net revenues collected from the (i) state sales tax pursuant to Chapter
68 6 (§ 58.1-600 et seq.) of Title 58.1, (ii) individual income tax pursuant to Chapter 3 (§ 58.1-300 et seq.)
69 of Title 58.1, (iii) corporate income tax pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, plus
70 (iv) insurance license tax pursuant to Chapter 25 (§ 58.1-2500 et seq.) of Title 58.1 for the
71 Commonwealth's fiscal year beginning July 1, 2010.

72 B. There shall be deposited into the Highway Maintenance and Operating Fund (the Fund) a portion
73 of the growth in state taxes attributable to economic activity generated or facilitated by the ports of
74 Hampton Roads. The amount deposited into the Fund in each fiscal year shall be determined using the
75 following revenue ratio: state tax revenues attributable to economic activity generated or facilitated by
76 the ports/base number of cargo containers.

77 The General Assembly intends for the revenue ratio to be a measure of the state revenues
78 attributable to economic activity of the ports on a per-cargo-container basis.

79 Deposits to the Fund shall begin in the Commonwealth's fiscal year starting on July 1, 2012. For
80 such fiscal year, the amount deposited to the Fund shall be computed by:

81 1. First, multiplying the revenue ratio by the increase in cargo containers for the most recently
82 ended fiscal year over the base number of cargo containers; and

83 2. Second, multiplying such product by 10 percent (0.10).

84 As a result, the amount deposited into the Fund for the Commonwealth's fiscal year starting on July
85 1, 2012, shall be computed using the following formula: revenue ratio X (increase in cargo containers
86 in fiscal year 2011-2012 over the base number of cargo containers) X 0.10.

87 For the fiscal year starting on July 1, 2013, and for each fiscal year thereafter, the amount
88 deposited into the Fund shall be computed using such formula except that the cargo containers in the
89 most recently ended fiscal year shall be used for determining the increase over the base number of
90 cargo containers.

91 C. The Secretary of Finance, in consultation with the Secretary of Transportation, shall determine
92 the revenue ratio. In determining the numerator of the revenue ratio, or the state tax revenues
93 attributable to economic activity generated or facilitated by the ports, the Secretary shall include state
94 tax revenues from (i) ports' operations, including but not limited to revenues from pilots, longshoremen,
95 truck and rail transportation, insurance, warehousing, storage, and ship servicing; (ii) the production in
96 Virginia of goods exported through the ports; (iii) goods imported through the ports and sold to citizens
97 of the Commonwealth or used as inputs by businesses located in the Commonwealth or by Virginia state
98 and local governmental entities; and (iv) employee compensation, fuel costs, business and professional
99 services, power, and communications relating to the factors set forth in clauses (i) through (iii). The
100 Secretary shall determine the revenue ratio no later than January 1, 2012, and shall promptly report the
101 same to the chairmen of the House Committee on Appropriations, the House Committee on Finance, and
102 the Senate Committee on Finance.

103 D. The Secretary of Finance, in consultation with the Secretary of Transportation, shall determine
104 the amount to be deposited into the Fund in each fiscal year in accordance with the provisions of this
105 section. The Secretary of Finance shall provide a written certification of the same to the Comptroller by
106 August 31 each year. The Comptroller shall then deposit such amount into the Fund by making four
107 equal deposits into the Fund on the fifteenth of September, December, March, and June.

108 E. Notwithstanding any other provision of this section, the amount deposited into the Fund pursuant
109 to this section shall not exceed \$100 million in any fiscal year.

110 § 33.1-391.18. Revenues from growth at Inland Port at Front Royal used for highway maintenance.

111 A. As used in this section, unless the context requires a different meaning:

112 "Base number of cargo containers" means the cargo containers in the Commonwealth's fiscal year
113 beginning July 1, 2010.

114 "Cargo containers" means the number of cargo containers loaded or unloaded at the port for
115 commerce in a fiscal year, measured in 20-foot-equivalent units.

116 "Net revenues" means the gross revenues less the applicable portion of any refunds.

117 "Port" means the Inland Port at Front Royal.

118 "State tax revenues" means the net revenues collected from the (i) state sales tax pursuant to Chapter
119 6 (§ 58.1-600 et seq.) of Title 58.1, (ii) individual income tax pursuant to Chapter 3 (§ 58.1-300 et seq.)
120 of Title 58.1, (iii) corporate income tax pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, plus

121 (iv) insurance license tax pursuant to Chapter 25 (§ 58.1-2500 et seq.) of Title 58.1 for the
122 Commonwealth's fiscal year beginning July 1, 2010.

123 B. There shall be deposited into the Highway Maintenance and Operating Fund (the Fund) a portion
124 of the growth in state taxes attributable to economic activity generated or facilitated by the port. The
125 amount deposited into the Fund in each fiscal year shall be determined using the following revenue
126 ratio: state tax revenues attributable to economic activity generated or facilitated by the port/base
127 number of cargo containers.

128 The General Assembly intends for the revenue ratio to be a measure of the state revenues
129 attributable to economic activity of the port on a per-cargo-container basis.

130 Deposits to the Fund shall begin in the Commonwealth's fiscal year starting on July 1, 2012. For
131 such fiscal year, the amount deposited to the Fund shall be computed by:

132 1. First, multiplying the revenue ratio by the increase in cargo containers for the most recently
133 ended fiscal year over the base number of cargo containers, and

134 2. Second, multiplying such product by 10 percent (0.10).

135 As a result, the amount deposited into the Fund for the Commonwealth's fiscal year starting on July
136 1, 2012, shall be computed using the following formula: revenue ratio X (increase in cargo containers
137 in fiscal year 2011-2012 over the base number of cargo containers) X 0.10.

138 For the fiscal year starting on July 1, 2013, and for each fiscal year thereafter, the amount
139 deposited into the Fund shall be computed using such formula except that the cargo containers in the
140 most recently ended fiscal year shall be used for determining the increase over the base number of
141 cargo containers.

142 C. The Secretary of Finance, in consultation with the Secretary of Transportation, shall determine
143 the revenue ratio. In determining the numerator of the revenue ratio, or the state tax revenues
144 attributable to economic activity generated or facilitated by the port, the Secretary shall include state
145 tax revenues from (i) port operations, including but not limited to revenues from truck and rail
146 transportation, insurance, warehousing, and storage; (ii) the production in Virginia of goods carried
147 from the port for export; (iii) goods imported through the port and sold to citizens of the
148 Commonwealth or used as inputs by businesses located in the Commonwealth or by Virginia state and
149 local governmental entities; and (iv) employee compensation, fuel costs, business and professional
150 services, power, and communications relating to the factors set forth in clauses (i) through (iii). The
151 Secretary shall determine the revenue ratio no later than January 1, 2012, and shall promptly report the
152 same to the chairmen of the House Committee on Appropriations, the House Committee on Finance, and
153 the Senate Committee on Finance.

154 D. The Secretary of Finance, in consultation with the Secretary of Transportation, shall determine
155 the amount to be deposited into the Fund in each fiscal year in accordance with the provisions of this
156 section. The Secretary of Finance shall provide a written certification of the same to the Comptroller by
157 August 31 each year. The Comptroller shall then deposit such amount into the Fund by making four
158 equal deposits into the Fund on the fifteenth of September, December, March, and June.

159 E. Notwithstanding any other provision of this section, the amount deposited into the Fund pursuant
160 to this section shall not exceed \$17 million in any fiscal year.

161 § 33.1-391.19. Revenues from growth at Port of Richmond used for highway maintenance.

162 A. As used in this section, unless the context requires a different meaning:

163 "Base number of cargo containers" means the cargo containers in the Commonwealth's fiscal year
164 beginning July 1, 2010.

165 "Cargo containers" means the number of cargo containers loaded onto, or unloaded from, ships in
166 the port for commerce in a fiscal year, measured in 20-foot-equivalent units.

167 "Net revenues" means the gross revenues less the applicable portion of any refunds.

168 "Port" means the Port of Richmond.

169 "State tax revenues" means the net revenues collected from the (i) state sales tax pursuant to Chapter
170 6 (§ 58.1-600 et seq.) of Title 58.1, (ii) individual income tax pursuant to Chapter 3 (§ 58.1-300 et seq.)
171 of Title 58.1, (iii) corporate income tax pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, plus
172 (iv) insurance license tax pursuant to Chapter 25 (§ 58.1-2500 et seq.) of Title 58.1 for the
173 Commonwealth's fiscal year beginning July 1, 2010.

174 B. There shall be deposited into the Highway Maintenance and Operating Fund (the Fund) a portion
175 of the growth in state taxes attributable to economic activity generated or facilitated by the port. The
176 amount deposited into the Fund in each fiscal year shall be determined using the following revenue
177 ratio: state tax revenues attributable to economic activity generated or facilitated by the port/Base
178 number of cargo containers.

179 The General Assembly intends for the revenue ratio to be a measure of the state revenues
180 attributable to economic activity of the port on a per-cargo-container basis.

181 Deposits to the Fund shall begin in the Commonwealth's fiscal year starting on July 1, 2012. For

182 *such fiscal year, the amount deposited to the Fund shall be computed by:*

183 *1. First, multiplying the revenue ratio by the increase in cargo containers for the most recently*
184 *ended fiscal year over the base number of cargo containers; and*

185 *2. Second, multiplying such product by 10 percent (0.10).*

186 *As a result, the amount deposited into the Fund for the Commonwealth's fiscal year starting on July*
187 *1, 2012, shall be computed using the following formula: revenue ratio X (increase in cargo containers*
188 *in fiscal year 2011-2012 over the base number of cargo containers) X 0.10.*

189 *For the fiscal year starting on July 1, 2013, and for each fiscal year thereafter, the amount*
190 *deposited into the Fund shall be computed using such formula except that the cargo containers in the*
191 *most recently ended fiscal year shall be used for determining the increase over the base number of*
192 *cargo containers.*

193 *C. The Secretary of Finance, in consultation with the Secretary of Transportation, shall determine*
194 *the revenue ratio. In determining the numerator of the revenue ratio, or the state tax revenues*
195 *attributable to economic activity generated or facilitated by the port, the Secretary shall include state*
196 *tax revenues from (i) port operations, including but not limited to revenues from pilots, longshoremen,*
197 *truck and rail transportation, insurance, warehousing, storage, and ship servicing; (ii) the production in*
198 *Virginia of goods exported through the port; (iii) goods imported through the port and sold to citizens*
199 *of the Commonwealth or used as inputs by businesses located in the Commonwealth or by Virginia state*
200 *and local governmental entities; and (iv) employee compensation, fuel costs, business and professional*
201 *services, power, and communications relating to the factors set forth in clauses (i) through (iii). The*
202 *Secretary shall determine the revenue ratio no later than January 1, 2012, and shall promptly report the*
203 *same to the chairmen of the House Committee on Appropriations, the House Committee on Finance, and*
204 *the Senate Committee on Finance.*

205 *D. The Secretary of Finance, in consultation with the Secretary of Transportation, shall determine*
206 *the amount to be deposited into the Fund in each fiscal year in accordance with the provisions of this*
207 *section. The Secretary of Finance shall provide a written certification of the same to the Comptroller by*
208 *August 31 each year. The Comptroller shall then deposit such amount into the Fund by making four*
209 *equal deposits into the Fund on the fifteenth of September, December, March, and June.*

210 *E. Notwithstanding any other provision of this section, the amount deposited into the Fund pursuant*
211 *to this section shall not exceed \$17 million in any fiscal year.*

212 *§ 58.1-638. Disposition of state sales and use tax revenue; localities' share; Game Protection Fund.*

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

215 *1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted*
216 *by the 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided*
217 *in this section, to the Transportation Trust Fund as defined in § 33.1-23.03:1. Of the funds paid to the*
218 *Transportation Trust Fund, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port*
219 *Fund as provided in this section; an aggregate of 2.4 percent shall be set aside as the Commonwealth*
220 *Airport Fund as provided in this section; and an aggregate of 14.5 percent in fiscal year 1998-1999 and*
221 *14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass*
222 *Transit Fund as provided in this section. The Fund's share of such net revenue shall be computed as an*
223 *estimate of the net revenue to be received into the state treasury each month, and such estimated*
224 *payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall*
225 *be made to the Fund on the last day of each month.*

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

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

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

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

239 *3. There is hereby created in the Department of the Treasury a special nonreverting fund which shall*
240 *be part of the Transportation Trust Fund and which shall be known as the Commonwealth Airport Fund.*
241 *The Commonwealth Airport Fund shall be established on the books of the Comptroller and any funds*
242 *remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in*
243 *the Fund. Interest earned on the funds shall be credited to the Fund. The funds so allocated shall be*

244 allocated by the Commonwealth Transportation Board to the Virginia Aviation Board. The funds shall
 245 be allocated by the Virginia Aviation Board to any Virginia airport which is owned by the
 246 Commonwealth, a governmental subdivision thereof, or a private entity to which the public has access
 247 for the purposes enumerated in § 5.1-2.16, or is owned or leased by the Metropolitan Washington
 248 Airports Authority (MWAA), as follows:

249 Any new funds in excess of \$12.1 million which are available for allocation by the Virginia Aviation
 250 Board from the Commonwealth Transportation Fund, shall be allocated as follows: 60 percent to
 251 MWAA, up to a maximum annual amount of \$2 million, and 40 percent to air carrier airports as
 252 provided in subdivision A 3 a. Except for adjustments due to changes in enplaned passengers, no air
 253 carrier airport sponsor, excluding MWAA, shall receive less funds identified under subdivision A 3 a
 254 than it received in fiscal year 1994-1995.

255 Of the remaining amount:

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

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

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

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

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

272 b. The amounts allocated pursuant to this section shall be used to support the public transportation
 273 administrative costs and the costs borne by the locality for the purchase of fuels, lubricants, tires and
 274 maintenance parts and supplies for public transportation at a state share of 80 percent in 2002 and 95
 275 percent in 2003 and succeeding years. These amounts may be used to support up to 95 percent of the
 276 local or nonfederal share of capital project costs for public transportation and ridesharing equipment,
 277 facilities, and associated costs. Capital costs may include debt service payments on local or agency
 278 transit bonds. The term "borne by the locality" means the local share eligible for state assistance
 279 consisting of costs in excess of the sum of fares and other operating revenues plus federal assistance
 280 received by the locality.

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

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

285 (2) The Board may allocate these funds to any locality or planning district commission to finance up
 286 to 80 percent of the local share of all costs associated with the development, implementation, and
 287 continuation of ridesharing programs.

288 (3) Funds allocated for experimental transit projects may be paid to any local governing body,
 289 transportation district commission, or public corporation or may be used directly by the Department of
 290 Rail and Public Transportation for the following purposes:

291 (a) To finance up to 95 percent of the capital costs related to the development, implementation and
 292 promotion of experimental public transportation and ridesharing projects approved by the Board.

293 (b) To finance up to 95 percent of the operating costs of experimental mass transportation and
 294 ridesharing projects approved by the Board for a period of time not to exceed 12 months.

295 (c) To finance up to 95 percent of the cost of the development and implementation of any other
 296 project designated by the Board where the purpose of such project is to enhance the provision and use
 297 of public transportation services.

298 d. Funds allocated for public transportation promotion and operation studies may be paid to any local
 299 governing body, planning district commission, transportation district commission, or public transit
 300 corporation, or may be used directly by the Department of Rail and Public Transportation for the
 301 following purposes and aid of public transportation services:

302 (1) At the approval of the Board to finance a program administered by the Department of Rail and
 303 Public Transportation designed to promote the use of public transportation and ridesharing throughout
 304 Virginia.

305 (2) To finance up to 50 percent of the local share of public transportation operations planning and
306 technical study projects approved by the Board.

307 e. At least 73.5 percent of the Fund shall be distributed to each transit property in the same
308 proportion as its operating expenses bear to the total statewide operating expenses and shall be spent for
309 the purposes specified in subdivision 4 b.

310 f. The remaining 25 percent shall be distributed for capital purposes on the basis of 95 percent of the
311 nonfederal share for federal projects and 95 percent of the total costs for nonfederal projects. In the
312 event that total capital funds available under this subdivision are insufficient to fund the complete list of
313 eligible projects, the funds shall be distributed to each transit property in the same proportion that such
314 capital expenditure bears to the statewide total of capital projects. Prior to the annual adoption of the
315 Six-Year Improvement Program, the Commonwealth Transportation Board may allocate up to 20 percent
316 of the funds in the Commonwealth Mass Transit Fund designated for capital purposes to transit
317 operating assistance if operating funds for the next fiscal year are estimated to be less than the current
318 fiscal year's allocation, to attempt to maintain transit operations at approximately the same level as the
319 previous fiscal year.

320 g. There is hereby created in the Department of the Treasury a special nonreverting fund known as
321 the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the
322 Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be
323 established on the books of the Comptroller and consist of such moneys as are appropriated to it by the
324 General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given,
325 bequeathed, granted, or otherwise made available to the Commonwealth Transit Capital Fund. Any funds
326 remaining in the Commonwealth Transit Capital Fund at the end of the biennium shall not revert to the
327 general fund, but shall remain in the Commonwealth Transit Capital Fund. Interest earned on funds
328 within the Commonwealth Transit Capital Fund shall remain in and be credited to the Commonwealth
329 Transit Capital Fund. Proceeds of the Commonwealth Transit Capital Fund may be paid to any political
330 subdivision, another public entity created by an act of the General Assembly, or a private entity as
331 defined in § 56-557 and for purposes as enumerated in subdivision 4c of § 33.1-269 or expended by the
332 Department of Rail and Public Transportation for the purposes specified in this subdivision. Revenues of
333 the Commonwealth Transit Capital Fund shall be used to support capital expenditures involving the
334 establishment, improvement, or expansion of public transportation services through specific projects
335 approved by the Commonwealth Transportation Board. Projects financed by the Commonwealth Transit
336 Capital Fund shall receive local, regional or private funding for at least 20 percent of the nonfederal
337 share of the total project cost.

338 5. Funds for Metro shall be paid by the Northern Virginia Transportation Commission (NVTC) to the
339 Washington Metropolitan Area Transit Authority (WMATA) and be a credit to the Counties of
340 Arlington and Fairfax and the Cities of Alexandria, Falls Church and Fairfax in the following manner:

341 a. Local obligations for debt service for WMATA rail transit bonds apportioned to each locality
342 using WMATA's capital formula shall be paid first by NVTC. NVTC shall use 95 percent state aid for
343 these payments.

344 b. The remaining funds shall be apportioned to reflect WMATA's allocation formulas by using the
345 related WMATA-allocated subsidies and relative shares of local transit subsidies. Capital costs shall
346 include 20 percent of annual local bus capital expenses. Hold harmless protections and obligations for
347 NVTC's jurisdictions agreed to by NVTC on November 5, 1998, shall remain in effect.

348 Appropriations from the Commonwealth Mass Transit Fund are intended to provide a stable and
349 reliable source of revenue as defined by Public Law 96-184.

350 B. The sales and use tax revenue generated by a one percent sales and use tax shall be distributed
351 among the counties and cities of this Commonwealth in the manner provided in subsections C and D.

352 C. The localities' share of the net revenue distributable under this section among the counties and
353 cities shall be apportioned by the Comptroller and distributed among them by warrants of the
354 Comptroller drawn on the Treasurer of Virginia as soon as practicable after the close of each month
355 during which the net revenue was received into the state treasury. The distribution of the localities' share
356 of such net revenue shall be computed with respect to the net revenue received into the state treasury
357 during each month, and such distribution shall be made as soon as practicable after the close of each
358 such month.

359 D. The net revenue so distributable among the counties and cities shall be apportioned and
360 distributed upon the basis of the latest yearly estimate of the population of cities and counties ages five
361 to 19, provided by the Weldon Cooper Center for Public Service of the University of Virginia. Such
362 population estimate produced by the Weldon Cooper Center for Public Service of the University of
363 Virginia shall account for persons who are domiciled in orphanages or charitable institutions or who are
364 dependents living on any federal military or naval reservation or other federal property within the school
365 division in which the institutions or federal military or naval reservation or other federal property is
366 located. Such population estimate produced by the Weldon Cooper Center for Public Service of the

367 University of Virginia shall account for members of the military services who are under 20 years of age
 368 within the school division in which the parents or guardians of such persons legally reside. Such
 369 population estimate produced by the Weldon Cooper Center for Public Service of the University of
 370 Virginia shall account for persons who are confined in state hospitals, state training schools or state
 371 training centers for the mentally retarded, mental institutions, or state or federal correctional institutions
 372 or who attend the Virginia School for the Deaf and the Blind within the school division in which the
 373 parents or guardians of such persons legally reside. Such population estimate produced by the Weldon
 374 Cooper Center for Public Service of the University of Virginia shall account for persons who attend
 375 institutions of higher education within the school division in which the student's parents or guardians
 376 legally reside. To such estimate, the Department of Education shall add the population of students with
 377 disabilities, ages two through four and 20 through 21, as provided to the Department of Education by
 378 school divisions. The revenue so apportionable and distributable is hereby appropriated to the several
 379 counties and cities for maintenance, operation, capital outlays, debt and interest payments, or other
 380 expenses incurred in the operation of the public schools, which shall be considered as funds raised from
 381 local resources. In any county, however, wherein is situated any incorporated town constituting a school
 382 division, the county treasurer shall pay into the town treasury for maintenance, operation, capital outlays,
 383 debt and interest payments, or other expenses incurred in the operation of the public schools, the proper
 384 proportionate amount received by him in the ratio that the school population of such town bears to the
 385 school population of the entire county. If the school population of any city or of any town constituting a
 386 school division is increased by the annexation of territory since the last estimate of school population
 387 provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this
 388 section, be added to the school population of such city or town as shown by the last such estimate and a
 389 proper reduction made in the school population of the county or counties from which the annexed
 390 territory was acquired.

391 E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a
 392 two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of
 393 hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment,
 394 wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the
 395 most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of
 396 Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated
 397 Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used,
 398 in part, to defray the cost of law enforcement. Not later than 30 days after the close of each quarter, the
 399 Comptroller shall transfer to the Game Protection Fund the appropriate amount of collections to be
 400 dedicated to such Fund. At any time that the balance in the Capital Improvement Fund, established
 401 under § 29.1-101.1, is equal to or in excess of \$35 million, any portion of sales and use tax revenues
 402 that would have been transferred to the Game Protection Fund, established under § 29.1-101, in excess
 403 of the net operating expenses of the Board, after deduction of other amounts which accrue to the Board
 404 and are set aside for the Game Protection Fund, shall remain in the general fund until such time as the
 405 balance in the Capital Improvement Fund is less than \$35 million.

406 F. 1. Of the net revenue generated from the one-half percent increase in the rate of the state sales
 407 and use tax effective August 1, 2004, pursuant to enactments of the 2004 Special Session I of the
 408 General Assembly, the Comptroller shall transfer from the general fund of the state treasury to the
 409 Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund established under
 410 § 58.1-638.1 an amount equivalent to one-half of the net revenue generated from such one-half percent
 411 increase as provided in this subdivision. The transfers to the Public Education Standards of
 412 Quality/Local Real Estate Property Tax Relief Fund under this subdivision shall be for one-half of the
 413 net revenue generated (and collected in the succeeding month) from such one-half percent increase for
 414 the month of August 2004 and for each month thereafter.

415 2. For the purposes of the Comptroller making the required transfers under subdivision 1, the Tax
 416 Commissioner shall make a written certification to the Comptroller no later than the twenty-fifth of each
 417 month certifying the sales and use tax revenues generated in the preceding month. Within three calendar
 418 days of receiving such certification, the Comptroller shall make the required transfers to the Public
 419 Education Standards of Quality/Local Real Estate Property Tax Relief Fund.

420 G. *Of the remaining sales and use tax revenue and beginning with the month of July 2011 and for*
 421 *each month thereafter, the net revenue generated by a 2.5 percent sales and use tax collected from the*
 422 *sales of automobile parts or automobile accessories shall be deposited into the Highway Maintenance*
 423 *and Operating Fund. For the purposes of the Comptroller making such deposit, the Tax Commissioner*
 424 *shall make a written certification to the Comptroller no later than the twenty-fifth of each month*
 425 *estimating the sales and use tax net revenues generated in the preceding month by a 2.5 percent sales*
 426 *and use tax collected from the sales of automobile parts or automobile accessories. Within seven*
 427 *business days after the date of the certification, the Comptroller shall make the required deposit into the*

428 *Highway Maintenance and Operating Fund.*

429 *GH.* If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall be
 430 corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.

431 *HI.* The term "net revenue," as used in this section, means the gross revenue received into the
 432 general fund ~~or~~, the Transportation Trust Fund, or the *Highway Maintenance and Operating Fund* of the
 433 state treasury under the preceding sections of this chapter, less refunds to taxpayers.

434 § 58.1-2217. Taxes levied; rate.

435 A. There is hereby levied a tax at the rate of ~~seventeen and one-half cents~~ \$0.05 per gallon on
 436 gasoline and gasohol, *which tax shall (i) increase to and be levied at the rate of \$0.07 per gallon*
 437 *beginning January 1, 2012; (ii) increase to and be levied at the rate of \$0.09 per gallon beginning*
 438 *January 1, 2013; (iii) increase to and be levied at the rate of \$0.11 per gallon beginning January 1,*
 439 *2014; (iv) increase to and be levied at the rate of \$0.13 per gallon beginning January 1, 2015; and (v)*
 440 *increase to and be levied at the rate of \$0.15 per gallon beginning January 1, 2016.*

441 B. (Contingent expiration date - see Editor's notes) There is hereby levied a tax at the rate of
 442 ~~seventeen and one-half cents~~ \$0.05 per gallon on diesel fuel, *which tax shall (i) increase to and be*
 443 *levied at the rate of \$0.07 per gallon beginning January 1, 2012; (ii) increase to and be levied at the*
 444 *rate of \$0.09 per gallon beginning January 1, 2013; (iii) increase to and be levied at the rate of \$0.11*
 445 *per gallon beginning January 1, 2014; (iv) increase to and be levied at the rate of \$0.13 per gallon*
 446 *beginning January 1, 2015; and (v) increase to and be levied at the rate of \$0.15 per gallon beginning*
 447 *January 1, 2016.*

448 B. (Contingent effective date - see Editor's notes) There is hereby levied a tax at the rate of ~~sixteen~~
 449 ~~cents~~ \$0.035 per gallon on diesel fuel, *which tax shall (i) increase to and be levied at the rate of \$0.055*
 450 *per gallon beginning January 1, 2012; (ii) increase to and be levied at the rate of \$0.075 per gallon*
 451 *beginning January 1, 2013; (iii) increase to and be levied at the rate of \$0.095 per gallon beginning*
 452 *January 1, 2014; (iv) increase to and be levied at the rate of \$0.115 per gallon beginning January 1,*
 453 *2015; and (v) increase to and be levied at the rate of \$0.135 per gallon beginning January 1, 2016.*

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

456 D. There is hereby levied a tax at the rate of ~~five cents~~ \$0.05 per gallon on aviation gasoline. Any
 457 person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use
 458 in highway vehicles any aviation gasoline shall be liable for the tax at the rate of ~~seventeen and one-half~~
 459 ~~cents~~ per gallon *provided in subsection A*, along with any penalties and interest that may accrue.

460 E. (Contingent expiration date - see Editor's notes) There is hereby levied a tax at the rate of ~~five~~
 461 ~~cents~~ \$0.05 per gallon on aviation jet fuel purchased or acquired for use by a user of aviation fuel other
 462 than an aviation consumer. There is hereby levied a tax at the rate of ~~five cents~~ \$0.05 per gallon upon
 463 the first 100,000 gallons of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired
 464 for use by any aviation consumer in any fiscal year. There is hereby levied a tax at the rate of one-half
 465 cent per gallon on all aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use
 466 by an aviation consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not
 467 licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any
 468 aviation jet fuel taxable under this chapter shall be liable for the tax imposed at the rate of ~~seventeen~~
 469 ~~and one-half cents~~ per gallon *provided in subsection A*, along with any penalties and interest that may
 470 accrue.

471 E. (Contingent effective date - see Editor's notes) There is hereby levied a tax at the rate of ~~five~~
 472 ~~cents~~ \$0.05 per gallon on aviation jet fuel purchased or acquired for use by a user of aviation fuel other
 473 than an aviation consumer. There is hereby levied a tax at the rate of ~~five cents~~ \$0.05 per gallon upon
 474 the first 100,000 gallons of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired
 475 for use by any aviation consumer in any fiscal year. There is hereby levied a tax at the rate of one-half
 476 cent per gallon on all aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use
 477 by an aviation consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not
 478 licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any
 479 aviation jet fuel taxable under this chapter shall be liable for the tax imposed at the rate of ~~sixteen cents~~
 480 per gallon *provided in subsection B*, along with any penalties and interest that may accrue.

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

484 § 58.1-2249. Tax on alternative fuel.

485 A. (Contingent expiration date - see Editor's notes) There is hereby levied a tax at the rate of
 486 ~~seventeen and one-half cents~~ \$0.05 per gallon on liquid alternative fuel used to operate a highway
 487 vehicle by means of a vehicle supply tank that stores fuel only for the purpose of supplying fuel to
 488 operate the vehicle. There is hereby levied a tax at a rate equivalent to ~~seventeen and one-half~~ \$0.05
 489 cents per gallon on all other alternative fuel used to operate a highway vehicle. The Commissioner shall

490 determine the equivalent rate applicable to such other alternative fuels. *The taxes under this subsection*
 491 *on such liquid alternative fuel and all other alternative fuel shall (i) increase to and be levied at the*
 492 *rate of \$0.07 per gallon beginning January 1, 2012; (ii) increase to and be levied at the rate of \$0.09*
 493 *per gallon beginning January 1, 2013; (iii) increase to and be levied at the rate of \$0.11 per gallon*
 494 *beginning January 1, 2014; (iv) increase to and be levied at the rate of \$0.13 per gallon beginning*
 495 *January 1, 2015; and (v) increase to and be levied at the rate of \$0.15 per gallon beginning January 1,*
 496 *2016.*

497 A. (Contingent effective date - see Editor's notes) There is hereby levied a tax at the rate of ~~sixteen~~
 498 ~~cents~~ \$0.035 per gallon on liquid alternative fuel used to operate a highway vehicle by means of a
 499 vehicle supply tank that stores fuel only for the purpose of supplying fuel to operate the vehicle. There
 500 is hereby levied a tax at a rate equivalent to ~~sixteen cents~~ \$0.035 per gallon on all other alternative fuel
 501 used to operate a highway vehicle. The Commissioner shall determine the equivalent rate applicable to
 502 such other alternative fuels. *The taxes under this subsection on such liquid alternative fuel and all other*
 503 *alternative fuel shall (i) increase to and be levied at the rate of \$0.055 per gallon beginning January 1,*
 504 *2012; (ii) increase to and be levied at the rate of \$0.075 per gallon beginning January 1, 2013; (iii)*
 505 *increase to and be levied at the rate of \$0.095 per gallon beginning January 1, 2014; (iv) increase to*
 506 *and be levied at the rate of \$0.115 per gallon beginning January 1, 2015; and (v) increase to and be*
 507 *levied at the rate of \$0.135 per gallon beginning January 1, 2016.*

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

513 *Article 8.1.*

514 *Additional Taxes.*

515 § 58.1-2288.1. *Additional taxes on fuels.*

516 A. *Beginning January 1, 2012, and thereafter, any licensee or person required to precollect the tax*
 517 *imposed on fuels under § 58.1-2217 or 58.1-2249 shall also be required to precollect an additional tax,*
 518 *which is hereby imposed at the rate established in subsection B, on the number of gallons of gasoline,*
 519 *gasohol, diesel fuel, blended fuel, or alternative fuel for which the licensee or person is precollecting the*
 520 *tax under such section or sections. The tax imposed under this section shall be in addition to all other*
 521 *taxes and fees of every kind now imposed by law.*

522 B. *The tax imposed under subsection A shall be imposed at a cents-per-gallon rate determined by the*
 523 *Commissioner. Such tax shall be imposed at a cents-per-gallon rate equal to five percent of the*
 524 *statewide average wholesale price of a gallon of self-serve unleaded regular gasoline for the applicable*
 525 *base period, excluding federal and state excise taxes, as determined by the Commissioner rounded up to*
 526 *the nearest one-tenth of one cent.*

527 *In computing the cents-per-gallon tax, the Commissioner shall use two base periods. The period from*
 528 *April 1 through September 30 shall be the base period for the purpose of determining the*
 529 *cents-per-gallon tax for the immediately following period beginning January 1 and ending June 30,*
 530 *inclusive. The period from October 1 through March 31 shall be the base period for the purpose of*
 531 *determining the cents-per-gallon tax for the immediately following period beginning July 1 and ending*
 532 *December 31, inclusive.*

533 C. *The tax imposed under this section on gallons of fuel for which the licensee or person is*
 534 *precollecting the tax under § 58.1-2217 or 58.1-2249 is imposed on the ultimate consumer but shall be*
 535 *precollected as prescribed herein, and the levies and assessments imposed on the licensee or person for*
 536 *such tax are imposed on them as agents of the Commonwealth for the precollection of the tax.*

537 D. *The tax imposed under subsection A shall be due and paid by such licensee or person at the*
 538 *same time that the tax under § 58.1-2217 or 58.1-2249, as applicable, is due. All provisions of this*
 539 *chapter including but not limited to return filing and reporting requirements, payment requirements and*
 540 *due dates for payment of tax, requirements to precollect tax, late payment penalties and interest,*
 541 *jeopardy assessments, civil penalties, discounts, deductions, and exemptions from tax shall apply mutatis*
 542 *mutandis to the additional tax imposed under this section.*

543 § 58.1-2289. (Contingent expiration date - see Editor's notes) *Disposition of tax revenue generally.*

544 A. Unless otherwise provided in this section, all taxes and fees, including civil penalties, collected by
 545 the Commissioner pursuant to this chapter, less a reasonable amount to be allocated for refunds, shall be
 546 promptly paid into the state treasury and shall constitute special funds within the Commonwealth
 547 Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for
 548 use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds
 549 shall accrue to these funds. Except as provided in § 33.1-23.03:1, no portion of the revenue derived
 550 from taxes collected pursuant to §§ 58.1-2217, 58.1-2249 or 58.1-2701, and remaining after authorized

551 refunds for nonhighway use of fuel, shall be used for any purpose other than the construction,
552 reconstruction or maintenance of the roads and projects comprising the State Highway System, the
553 Interstate System and the secondary system of state highways and expenditures directly and necessarily
554 required for such purposes, including the retirement of revenue bonds.

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

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

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

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

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

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

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

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

612 G. *The additional revenues (less any additional refunds authorized and the direct costs of*

613 administration by the Department in collecting such additional revenues) generated by the additional tax
614 under § 58.1-2288.1 shall be collected pursuant to Article 4 (§ 58.1-2230 et seq.) and deposited into the
615 Highway Maintenance and Operating Fund.

616 For purposes of such deposits, the Commissioner shall provide a monthly certification to the
617 Comptroller reporting the net revenues generated by such tax in the most recently ended month for
618 which such net revenues have been collected.

619 The monthly certification shall be provided to the Comptroller no later than the twenty-fifth of each
620 month. The Comptroller shall deposit an amount equal to each month's net revenues (as reported in the
621 Commissioner's certification) into the Highway Maintenance and Operating Fund no later than the last
622 day of the same month in which the certification was made by the Commissioner.

623 H. The additional revenues (less any additional refunds authorized and the direct costs of
624 administration by the Department in collecting such additional revenues) generated by the increases in
625 the rates of taxes under §§ 58.1-2217 and 58.1-2249 beginning January 1, 2012, pursuant to enactments
626 of the 2011 Session of the General Assembly shall be collected pursuant to Article 4 (§ 58.1-2230 et
627 seq.) and deposited into the Highway Maintenance and Operating Fund.

628 For purposes of such deposits, the Commissioner shall provide a monthly certification to the
629 Comptroller reporting the net revenues generated by such tax in the most recently ended month for
630 which such net revenues have been collected.

631 The monthly certification shall be provided to the Comptroller no later than the twenty-fifth of each
632 month. The Comptroller shall deposit an amount equal to each month's net revenues (as reported in the
633 Commissioner's certification) into the Highway Maintenance and Operating Fund no later than the last
634 day of the same month in which the certification was made by the Commissioner.

635 § 58.1-2289. (Contingent effective date - see Editor's notes) Disposition of tax revenue generally.

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

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

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

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

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

672 D. One and one-half cents of the tax collected on each gallon of fuel used to propel a commercial
673 watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of

674 the state treasury to be made available to the Board of Game and Inland Fisheries until expended for the
675 purposes provided generally in subsection C of § 29.1-701, including acquisition, construction,
676 improvement and maintenance of public boating access areas on the public waters of this
677 Commonwealth and for other activities and purposes of direct benefit and interest to the boating public
678 and for no other purpose. However, one and one-half cents per gallon on fuel used by commercial
679 fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be
680 used for the construction, repair, improvement and maintenance of the public docks of this
681 Commonwealth used by said commercial watercraft. Any expenditures for the acquisition, construction,
682 improvement and maintenance of the public docks shall be made according to a plan developed by the
683 Virginia Marine Resources Commission.

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

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

701 *F. The additional revenues (less any additional refunds authorized and the direct costs of*
702 *administration by the Department in collecting such additional revenues) generated by the additional tax*
703 *under § 58.1-2288.1 shall be collected pursuant to Article 4 (§ 58.1-2230 et seq.) and deposited into the*
704 *Highway Maintenance and Operating Fund.*

705 *For purposes of such deposits, the Commissioner shall provide a monthly certification to the*
706 *Comptroller reporting the net revenues generated by such tax in the most recently ended month for*
707 *which such net revenues have been collected.*

708 *The monthly certification shall be provided to the Comptroller no later than the twenty-fifth of each*
709 *month. The Comptroller shall deposit an amount equal to each month's net revenues (as reported in the*
710 *Commissioner's certification) into the Highway Maintenance and Operating Fund no later than the last*
711 *day of the same month in which the certification was made by the Commissioner.*

712 *G. The additional revenues (less any additional refunds authorized and the direct costs of*
713 *administration by the Department in collecting such additional revenues) generated by the increases in*
714 *the rates of taxes under §§ 58.1-2217 and 58.1-2249 beginning January 1, 2012, pursuant to enactments*
715 *of the 2011 Session of the General Assembly shall be collected pursuant to Article 4 (§ 58.1-2230 et*
716 *seq.) and deposited into the Highway Maintenance and Operating Fund.*

717 *For purposes of such deposits, the Commissioner shall provide a monthly certification to the*
718 *Comptroller reporting the net revenues generated by such tax in the most recently ended month for*
719 *which such net revenues have been collected.*

720 *The monthly certification shall be provided to the Comptroller no later than the twenty-fifth of each*
721 *month. The Comptroller shall deposit an amount equal to each month's net revenues (as reported in the*
722 *Commissioner's certification) into the Highway Maintenance and Operating Fund no later than the last*
723 *day of the same month in which the certification was made by the Commissioner.*

724 § 58.1-2402. Levy.

725 A. There is hereby levied, in addition to all other taxes and fees of every kind now imposed by law,
726 a tax upon the sale or use of motor vehicles in Virginia, other than (i) vehicles with a gross vehicle
727 weight rating or gross combination weight rating of 26,001 pounds or more, or (ii) a sale to or use by a
728 person for rental as an established business or part of an established business or incidental or germane to
729 such business.

730 There shall also be levied a tax upon the rental of a motor vehicle in Virginia, without regard to
731 whether such vehicle is required to be licensed by the Commonwealth. However, such tax shall not be
732 levied upon a rental to a person for re-rental as an established business or part of an established
733 business, or incidental or germane to such business.

734 The amount of the tax to be collected shall be determined by the Commissioner by the application of
735 the following rates against the gross sales price or gross proceeds:

736 1. Three percent of the sale price of each motor vehicle sold in Virginia prior to January 1, 2012;
 737 3.5 percent of the sale price of each motor vehicle sold in Virginia on or after January 1, 2012, but
 738 prior to January 1, 2013; four percent of the sale price of each motor vehicle sold in Virginia on or
 739 after January 1, 2013, but prior to January 1, 2014; 4.5 percent of the sale price of each motor vehicle
 740 sold in Virginia on or after January 1, 2014, but prior to January 1, 2015; and five percent of the sale
 741 price of each motor vehicle sold in Virginia on or after January 1, 2015. If such motor vehicle is a
 742 manufactured home as defined in § 36-85.3, the tax shall be three percent of the sale price of each such
 743 manufactured home sold in this Commonwealth; if such vehicle is a mobile office as defined in
 744 § 58.1-2401, the tax shall be two percent of the sale price of each mobile office sold in this
 745 Commonwealth.

746 2. Three percent of the sale price of each motor vehicle, or three percent of the sale price of each
 747 manufactured home as defined in § 36-85.3, or two percent of the sale price of each mobile office as
 748 defined in § 58.1-2401, not sold in Virginia but used or stored for use in this Commonwealth. *However,*
 749 *the rate of tax on motor vehicles pursuant to this subdivision shall be 3.5 percent of the sale price of*
 750 *each motor vehicle sold in Virginia on or after January 1, 2012, but prior to January 1, 2013; four*
 751 *percent of the sale price of each motor vehicle sold in Virginia on or after January 1, 2013, but prior*
 752 *to January 1, 2014; 4.5 percent of the sale price of each motor vehicle sold in Virginia on or after*
 753 *January 1, 2014, but prior to January 1, 2015; and five percent of the sale price of each motor vehicle*
 754 *sold in Virginia on or after January 1, 2015. When any such motor vehicle or manufactured home is*
 755 *first used or stored for use in Virginia six months or more after its acquisition, the tax shall be based on*
 756 *its current market value.*

757 3. Four percent of the gross proceeds from the rental in Virginia of any motor vehicle, except those
 758 with a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more.

759 4. In addition to the tax levied pursuant to subdivision A 3, a tax of four percent of the gross
 760 proceeds shall be levied on the rental in Virginia of any daily rental vehicle, whether or not such vehicle
 761 is required to be licensed in the Commonwealth.

762 5. In addition to all other applicable taxes and fees, a fee of two percent of the gross proceeds shall
 763 be imposed on the rental in Virginia of any daily rental vehicle, whether or not such vehicle is required
 764 to be licensed in the Commonwealth. For purposes of this chapter, the rental fee shall be implemented,
 765 enforced, and collected in the same manner that rental taxes are implemented, enforced, and collected.

766 6. The minimum tax levied on the sale of any motor vehicle in the Commonwealth shall be \$35,
 767 except as provided by those exemptions defined in § 58.1-2403.

768 B. A transaction taxed under subdivision A 1 shall not also be taxed under subdivision A 2, nor shall
 769 the same transaction be taxed more than once under either subdivision. A motor vehicle subject to the
 770 tax imposed under subdivision A 3 shall be subject to the tax under either subdivision A 1 or A 2 when
 771 it ceases to be used for rental as an established business or part of an established business, or incidental
 772 or germane to such business.

773 C. Any motor vehicle, trailer or semitrailer exempt from this tax under subdivision 1 or 2 of
 774 § 58.1-2403 shall be subject to the tax, based on the current market value when such vehicle is no
 775 longer owned, rented or used by the United States government or any governmental agency, or the
 776 Commonwealth of Virginia or any political subdivision thereof. Further, any motor vehicle, trailer or
 777 semitrailer exempt from the tax imposed by this chapter under subdivision 11 of § 58.1-2403 or
 778 §§ 46.2-663 through 46.2-674 shall be subject to the tax, based on the current market value, when such
 779 vehicle is subsequently licensed to operate on the highways of this Commonwealth.

780 D. Any person who with intent to evade or to aid another person to evade the tax provided for
 781 herein, falsely states the selling price of a vehicle on a bill of sale, assignment of title, application for
 782 title, or any other document or paper submitted to the Commissioner pursuant to any provisions of this
 783 title or Title 46.2, shall be guilty of a Class 3 misdemeanor.

784 E. Effective January 1, 1997, any amount designated as a "processing fee" and any amount charged
 785 by a dealer for processing a transaction, which is required to be included on a buyer's order pursuant to
 786 subdivision A 10 of § 46.2-1530, shall be subject to the tax.

787 § 58.1-2425. Disposition of revenues.

788 A. Funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury.
 789 Except as otherwise provided in this section, these funds shall constitute special funds within the
 790 Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall
 791 be available for use in subsequent years for the purposes set forth in this chapter, and any interest
 792 income on such funds shall accrue to these funds. The revenue so derived, after refunds have been
 793 deducted, is hereby allocated for the construction, reconstruction and maintenance of highways and the
 794 regulation of traffic thereon and for no other purpose. However, (i) all funds collected pursuant to the
 795 provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the
 796 city, town, or county wherein such manufactured home is to be situated as a dwelling; (ii) all funds

797 collected from the additional tax imposed by subdivision A 4 of § 58.1-2402 on the rental of daily rental
 798 vehicles shall be distributed quarterly to the city, town, or county wherein such vehicle was delivered to
 799 the rentee; (iii) effective January 1, 1987, an amount equivalent to the net additional revenues generated
 800 by enactments of the 1986 Special Session of the Virginia General Assembly which amended
 801 §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402 and this section shall be distributed to and paid into the
 802 Transportation Trust Fund, a special fund within the Commonwealth Transportation Fund, and are
 803 hereby appropriated to the Commonwealth Transportation Board for transportation needs; (iv) except as
 804 otherwise provided in clause (iii) of this sentence, all moneys collected from the tax on the gross
 805 proceeds from the rental in Virginia of any motor vehicle pursuant to subdivision A 3 of § 58.1-2402 at
 806 the tax rate in effect on December 31, 1986, shall be paid by the Commissioner into the state treasury
 807 and shall be paid into the Rail Enhancement Fund established by § 33.1-221.1:1.1; and (v) all additional
 808 revenues resulting from the fee imposed under subdivision A 5 of § 58.1-2402 as enacted by the 2004
 809 Session of the General Assembly shall be used to pay the debt service on the bonds issued by the
 810 Virginia Public Building Authority for the Statewide Agencies Radio System (STARS) for the
 811 Department of State Police pursuant to the authority granted by the 2004 Session of the General
 812 Assembly; and (vi) all additional revenues generated by the annual increases in the rates of taxes under
 813 § 58.1-2402 (net of the applicable portion of any refunds and the direct costs of administration by the
 814 Department in collecting such additional revenues) beginning January 1, 2012, pursuant to enactments
 815 of the 2011 Session of the General Assembly shall be deposited into the Highway Maintenance and
 816 Operating Fund.

817 *B. For purposes of the deposits under clause (vi) of subsection A, the Commissioner shall provide a*
 818 *monthly certification to the Comptroller reporting the net revenues generated in the preceding month*
 819 *from the increases in the rates of taxes under § 58.1-2402 pursuant to enactments of the 2011 Session of*
 820 *the General Assembly.*

821 *The monthly certification shall be provided to the Comptroller no later than the twenty-fifth of each*
 822 *month. The Comptroller shall deposit an amount equal to each month's net revenues (as reported in the*
 823 *Commissioner's certification) into the Highway Maintenance and Operating Fund no later than the last*
 824 *day of the same month in which the certification was made by the Commissioner.*

825 **BC.** As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation
 826 Trust Fund pursuant to clause (iii) of subsection A of this section, an aggregate of 4.2 percent shall be
 827 set aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the
 828 Commonwealth Airport Fund; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7
 829 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit
 830 Fund.

831 § 58.1-2701. (Contingent expiration date - see Editor's notes) Amount of tax.

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

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

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

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

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

850 § 58.1-2701. (Contingent effective date - see Editor's notes) Amount of tax.

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

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

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

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

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

869 § 58.1-2706. Credit for payment of motor fuel, diesel fuel or liquefied gases tax.

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

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

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

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

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

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

894 **2. That if the revenues, less refunds, generated under Chapter 22 (§ 58.1-2200 et seq.) of Title 58.1**
 895 **of the Code of Virginia for any fiscal year are at least \$350 million greater than the revenues, less**
 896 **refunds, generated under such Chapter for the Commonwealth's fiscal year ending on June 30,**
 897 **2011, then any scheduled increase in the rates of taxes under §§ 58.1-2217 and 58.1-2249 of the**
 898 **Code of Virginia pursuant to the provisions of this act that has not already become effective shall**
 899 **not thereafter become effective. Within 45 days after the end of each fiscal year, the Secretary of**
 900 **Finance shall make a written determination as to whether the condition in this enactment has been**
 901 **met and shall as soon as practicable provide a copy of the same to the Governor and the General**
 902 **Assembly.**

903 **3. That the Commissioner of the Department of Motor Vehicles shall periodically publish the**
 904 **rates of taxes on fuels taxable under Chapter 22 (§ 58.1-2200 et seq.) of Title 58.1 of the Code of**
 905 **Virginia for purposes of identifying the rates of taxes currently in effect under §§ 58.1-2217,**
 906 **58.1-2249, and 58.1-2288.1 of the Code of Virginia.**

907 **4. That should any portion of this act be held unconstitutional by a court of competent**
 908 **jurisdiction, the remaining portions of this act shall remain in effect.**