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**HOUSE BILL NO. 899**

Offered January 11, 2012

Prefiled January 11, 2012

*A BILL to amend and reenact §§ 58.1-638, 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, relating to transportation funding; motor fuels, and sales and use taxes.*

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Referred to Committee on Finance

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

**1. That §§ 58.1-638, 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 as follows:**

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

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

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

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

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

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

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

3. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be part of the Transportation Trust Fund and which shall be known as the Commonwealth Airport Fund. The Commonwealth Airport Fund shall be established on the books of the Comptroller and any funds remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the funds shall be credited to the Fund. The funds so allocated shall be allocated by the Commonwealth Transportation Board to the Virginia Aviation Board. The funds shall be allocated by the Virginia Aviation Board to any Virginia airport which is owned by the Commonwealth, a governmental subdivision thereof, or a private entity to which the public has access for the purposes enumerated in § 5.1-2.16, or is owned or leased by the Metropolitan Washington Airports Authority (MWAA), as follows:

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

Of the remaining amount:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

113 f. The remaining 25 percent shall be distributed for capital purposes on the basis of 95 percent of the  
114 nonfederal share for federal projects and 95 percent of the total costs for nonfederal projects. In the  
115 event that total capital funds available under this subdivision are insufficient to fund the complete list of  
116 eligible projects, the funds shall be distributed to each transit property in the same proportion that such  
117 capital expenditure bears to the statewide total of capital projects. Prior to the annual adoption of the  
118 Six-Year Improvement Program, the Commonwealth Transportation Board may allocate up to 20 percent  
119 of the funds in the Commonwealth Mass Transit Fund designated for capital purposes to transit  
120 operating assistance if operating funds for the next fiscal year are estimated to be less than the current

fiscal year's allocation, to attempt to maintain transit operations at approximately the same level as the previous fiscal year.

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

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

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

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

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

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

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

D. The net revenue so distributable among the counties and cities shall be apportioned and distributed upon the basis of the latest yearly estimate of the population of cities and counties ages five to 19, provided by the Weldon Cooper Center for Public Service of the University of Virginia. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for persons who are domiciled in orphanages or charitable institutions or who are dependents living on any federal military or naval reservation or other federal property within the school division in which the institutions or federal military or naval reservation or other federal property is located. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for members of the military services who are under 20 years of age within the school division in which the parents or guardians of such persons legally reside. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for persons who are confined in state hospitals, state training schools or state training centers for the mentally retarded, mental institutions, or state or federal correctional institutions or who attend the Virginia School for the Deaf and the Blind within the school division in which the parents or guardians of such persons legally reside. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for persons who attend institutions of higher education within the school division in which the student's parents or guardians legally reside. To such estimate, the Department of Education shall add the population of students with disabilities, ages two through four and 20 through 21, as provided to the Department of Education by school divisions. The revenue so apportionable and distributable is hereby appropriated to the several

182 counties and cities for maintenance, operation, capital outlays, debt and interest payments, or other  
183 expenses incurred in the operation of the public schools, which shall be considered as funds raised from  
184 local resources. In any county, however, wherein is situated any incorporated town constituting a school  
185 division, the county treasurer shall pay into the town treasury for maintenance, operation, capital outlays,  
186 debt and interest payments, or other expenses incurred in the operation of the public schools, the proper  
187 proportionate amount received by him in the ratio that the school population of such town bears to the  
188 school population of the entire county. If the school population of any city or of any town constituting a  
189 school division is increased by the annexation of territory since the last estimate of school population  
190 provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this  
191 section, be added to the school population of such city or town as shown by the last such estimate and a  
192 proper reduction made in the school population of the county or counties from which the annexed  
193 territory was acquired.

194 E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a  
195 two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of  
196 hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment,  
197 wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the  
198 most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of  
199 Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated  
200 Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used,  
201 in part, to defray the cost of law enforcement. Not later than 30 days after the close of each quarter, the  
202 Comptroller shall transfer to the Game Protection Fund the appropriate amount of collections to be  
203 dedicated to such Fund. At any time that the balance in the Capital Improvement Fund, established  
204 under § 29.1-101.01, is equal to or in excess of \$35 million, any portion of sales and use tax revenues  
205 that would have been transferred to the Game Protection Fund, established under § 29.1-101, in excess  
206 of the net operating expenses of the Board, after deduction of other amounts which accrue to the Board  
207 and are set aside for the Game Protection Fund, shall remain in the general fund until such time as the  
208 balance in the Capital Improvement Fund is less than \$35 million.

209 F. 1. Of the net revenue generated from the one-half percent increase in the rate of the state sales  
210 and use tax effective August 1, 2004, pursuant to enactments of the 2004 Special Session I of the  
211 General Assembly, the Comptroller shall transfer from the general fund of the state treasury to the  
212 Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund established under  
213 § 58.1-638.1 an amount equivalent to one-half of the net revenue generated from such one-half percent  
214 increase as provided in this subdivision. The transfers to the Public Education Standards of  
215 Quality/Local Real Estate Property Tax Relief Fund under this subdivision shall be for one-half of the  
216 net revenue generated (and collected in the succeeding month) from such one-half percent increase for  
217 the month of August 2004 and for each month thereafter.

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

223 G. 1. *Beginning July 1, 2012, of the state sales and use tax revenue remaining after the other*  
224 *distributions made pursuant to this section, an amount estimated by the Department of Taxation to equal*  
225 *a one-quarter percent sales and use tax in the Counties of Arlington, Fairfax, Loudoun, and Prince*  
226 *William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park is hereby*  
227 *dedicated for transportation funding in such localities as appropriated by the general appropriation act.*  
228 *Revenues collected pursuant to this subdivision shall be transferred in accordance with subdivision 3 to*  
229 *the Northern Virginia Transportation Authority, and such revenues shall be used for capital projects in*  
230 *the Commonwealth Transportation Board's Six-Year Improvement Program.*

231 2. *Beginning July 1, 2012, of the state sales and use tax revenue remaining after the other*  
232 *distributions made pursuant to this section, an amount estimated by the Department to equal a*  
233 *one-quarter percent sales and use tax in the Counties of Isle of Wight, James City, and York and the*  
234 *Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach,*  
235 *and Williamsburg is hereby dedicated for transportation funding in such localities as appropriated by*  
236 *the general appropriation act. Revenues collected pursuant to this subdivision shall be transferred in*  
237 *accordance with subdivision 3 to the Hampton Roads Transportation Planning Organization, and such*  
238 *revenues shall be used for capital projects in the Commonwealth Transportation Board's Six-Year*  
239 *Improvement Program.*

240 3. *For the purposes of the Comptroller making the required transfers under subdivisions 1 and 2, the*  
241 *Tax Commissioner shall make a written certification to the Comptroller no later than the twenty-fifth of*  
242 *each month certifying the estimated sales and use tax revenues generated in the preceding month. The*  
243 *Comptroller shall then transfer such amount of state sales and use tax revenue remaining after the other*

distributions made pursuant to this section, an amount estimated by the Department of Taxation to equal a one-quarter percent sales and use tax.

G. H. If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall be corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.

H. I. The term "net revenue," as used in this section, means the gross revenue received into the general fund or the Transportation Trust Fund of the state treasury under the preceding sections of this chapter, less refunds to taxpayers.

§ 58.1-2217. Taxes levied; rate.

A. There is hereby levied a tax at the rate of ~~seventeen and one-half~~ 17.5 cents (\$0.175) per gallon on gasoline and gasohol.

*Beginning July 1, 2012, the rate shall be adjusted each year on July 1 by a percentage, as determined by the Commissioner and rounded up to the closest one-tenth of one percent, equal to the percentage change in the National Highway Construction Cost Index from January 1 through December 31 of the year immediately preceding the affected year, as published by the Federal Highway Administration's Office of Policy Information.*

B. (Contingent expiration date - see Editor's notes) There is hereby levied a tax on each gallon of diesel fuel at the same rate of ~~seventeen and one-half cents per gallon on diesel fuel~~ as the rate in effect pursuant to subsection A.

B. (Contingent effective date - see Editor's notes) There is hereby levied a tax on each gallon of diesel fuel at the rate of ~~sixteen~~ 1.5 cents per gallon on diesel fuel (\$0.015) less than the rate in effect in subsection A.

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

D. There is hereby levied a tax at the rate of five cents (\$0.05) per gallon on aviation gasoline. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation gasoline shall be liable for the tax at the rate of ~~seventeen and one-half~~ 17.5 cents (\$0.175) per gallon, along with any penalties and interest that may accrue.

E. (Contingent expiration date - see Editor's notes) There is hereby levied a tax at the rate of five cents (\$0.05) per gallon on aviation jet fuel purchased or acquired for use by a user of aviation fuel other than an aviation consumer. There is hereby levied a tax at the rate of five cents (\$0.05) per gallon upon the first 100,000 gallons of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by any aviation consumer in any fiscal year. There is hereby levied a tax at the rate of one-half cent (\$0.005) per gallon on all aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by an aviation consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation jet fuel taxable under this chapter shall be liable for the tax imposed at the rate of ~~seventeen and one-half~~ 17.5 cents (\$0.175) per gallon, along with any penalties and interest that may accrue.

E. (Contingent effective date - see Editor's notes) There is hereby levied a tax at the rate of five cents (\$0.05) per gallon on aviation jet fuel purchased or acquired for use by a user of aviation fuel other than an aviation consumer. There is hereby levied a tax at the rate of five cents (\$0.05) per gallon upon the first 100,000 gallons of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by any aviation consumer in any fiscal year. There is hereby levied a tax at the rate of one-half cent (\$0.005) per gallon on all aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by an aviation consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation jet fuel taxable under this chapter shall be liable for the tax imposed at the rate of ~~sixteen~~ 16 cents (\$0.16) per gallon, along with any penalties and interest that may accrue.

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

§ 58.1-2249. Tax on alternative fuel.

A. (Contingent expiration date - see Editor's notes) There is hereby levied a tax at the rate of ~~seventeen and one-half cents per gallon in effect under subsection A of § 58.1-2217~~ on each gallon of liquid alternative fuel used to operate a highway vehicle by means of a vehicle supply tank that stores fuel only for the purpose of supplying fuel to operate the vehicle. There is hereby levied a tax at a rate equivalent to ~~seventeen and one-half cents per gallon~~ the rate in effect pursuant to subsection A of § 58.1-2217 on each gallon of all other alternative fuel used to operate a highway vehicle. The Commissioner shall determine the equivalent rate applicable to such other alternative fuels.

A. (Contingent effective date - see Editor's notes) There is hereby levied a tax at the rate of ~~sixteen~~ 1.5 cents per gallon (\$0.015) less than the rate in effect pursuant to subsection A of § 58.1-2217

305 on *each gallon of* liquid alternative fuel used to operate a highway vehicle by means of a vehicle supply  
306 tank that stores fuel only for the purpose of supplying fuel to operate the vehicle. There is hereby levied  
307 a tax at a rate equivalent to ~~sixteen~~ 1.5 cents per gallon (\$0.015) ~~less than the rate in effect pursuant to~~  
308 *subsection A of § 58.1-2217 on each gallon of* all other alternative fuel used to operate a highway  
309 vehicle. The Commissioner shall determine the equivalent rate applicable to such other alternative fuels.

310 B. In addition to any tax imposed by this article, there is hereby levied an annual license tax of ~~fifty~~  
311 ~~dollars~~ \$50 per vehicle on each highway vehicle that is fueled from a private source if the alternative  
312 fuels tax levied under this article has not been paid on fuel used in the vehicle. *Beginning July 1, 2012,*  
313 *and each July 1 thereafter, the amount of the license tax shall be adjusted by the same percentage*  
314 *adjustment to the tax rate pursuant to subsection A of § 58.1-2217.* If such a highway vehicle is not in  
315 operation by January 1 of any year, the license tax shall be reduced by one-twelfth for each complete  
316 month which shall have elapsed since the beginning of such year.

317 § 58.1-2289. (Contingent effective date - see Editor's notes) Disposition of tax revenue generally.

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

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

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

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

344 C. One-half cent (\$0.005) of the tax collected on each gallon of fuel on which the refund has been  
345 paid at the rate of ~~seventeen cents per gallon, or in the case of diesel fuel, fifteen and one-half cents per~~  
346 ~~gallon, in effect pursuant to subsection A of § 58.1-2217~~ for each gallon of fuel consumed in tractors  
347 and unlicensed equipment used for agricultural purposes shall be paid into a special fund of the state  
348 treasury, known as the Virginia Agricultural Foundation Fund, to be disbursed to make certain refunds  
349 and defray the costs of the research and educational phases of the agricultural program, including  
350 supplemental salary payments to certain employees at Virginia Polytechnic Institute and State University,  
351 the Department of Agriculture and Consumer Services and the Virginia Truck and Ornamentals Research  
352 Station, including reasonable expenses of the Virginia Agricultural Council.

353 D. One and one-half cents (\$0.015) of the tax collected on each gallon of fuel used to propel a  
354 commercial watercraft upon which a refund has been paid shall be paid to the credit of the Game  
355 Protection Fund of the state treasury to be made available to the Board of Game and Inland Fisheries  
356 until expended for the purposes provided generally in subsection C of § 29.1-701, including acquisition,  
357 construction, improvement and maintenance of public boating access areas on the public waters of this  
358 Commonwealth and for other activities and purposes of direct benefit and interest to the boating public  
359 and for no other purpose. However, one and one-half cents (\$0.015) per gallon on fuel used by  
360 commercial fishing, oystering, clamming, and crabbing boats shall be paid to the Department of  
361 Transportation to be used for the construction, repair, improvement and maintenance of the public docks  
362 of this Commonwealth used by said commercial watercraft. Any expenditures for the acquisition,  
363 construction, improvement and maintenance of the public docks shall be made according to a plan  
364 developed by the Virginia Marine Resources Commission.

365 From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for  
366 the propelling of watercraft, after deduction for lawful refunds, there shall be paid into the state treasury

for use by the Marine Resources Commission, the Virginia Soil and Water Conservation Board, the State Water Control Board, and the Commonwealth Transportation Board to (i) improve the public docks as specified in this section, (ii) improve commercial and sports fisheries in Virginia's tidal waters, (iii) make environmental improvements including, without limitation, fisheries management and habitat enhancement in the Chesapeake and its tributaries, and (iv) further the purposes set forth in § 33.1-223, a sum as established by the General Assembly.

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

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

A. Except as provided in subsection B, every motor carrier shall pay a road tax equivalent to \$0.21 3.5 cents (\$0.035) more per gallon than the rate in effect pursuant to subsection A of § 58.1-2217, calculated on the amount of motor fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of ~~sixty~~ 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute); used in its operations within the Commonwealth.

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

B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles that are not registered under the International Registration Plan shall pay a fee of \$150 per year for each qualified highway vehicle regardless of whether such vehicle will be included on the motor carrier's IFTA return. *Beginning July 1, 2012, and each July 1 thereafter, the amount of the fee under this subsection shall be adjusted by the same percentage of the tax rate adjustment pursuant to subsection A of § 58.1-2217.* The fee is due and payable when the vehicle registration fees are paid pursuant to the provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2.

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

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

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

A. Except as provided in subsection B, every motor carrier shall pay a road tax equivalent to ~~nineteen and one-half~~ two cents (\$0.02) more per gallon than the rate in effect pursuant to subsection A of § 58.1-2217, calculated on the amount of motor fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of ~~sixty~~ 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute); used in its operations within the Commonwealth.

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

B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles that are not registered under the International Registration Plan shall pay a fee of \$100 per year for each qualified highway vehicle, regardless of whether such vehicle will be included on the motor carrier's IFTA return. The fee is due and payable when the vehicle registration fees are paid pursuant to the provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2. *Beginning July 1, 2012, and each July 1 thereafter, the amount of the fee under this subsection shall be adjusted by the same percentage adjustment to the tax rate pursuant to subsection A of § 58.1-2217.*

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

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

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

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

428 satisfactory to, the Department shall be furnished by each carrier claiming the credit herein allowed.

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

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

436 D. The refund may be allowed without a formal hearing if the amount of refund is agreed to by the  
437 applicant. Otherwise, a formal hearing on the application shall be held by the Department after notice of  
438 not less than ~~ten~~ 10 days to the applicant and the Attorney General.

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

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