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HOUSE BILL NO. 1472

Offered January 9, 2013

Prefiled December 31, 2012

A *BILL to amend and reenact §§ 15.2-4838.1, 33.1-23.03:10, 58.1-300, 58.1-520, as it is currently effective and as it may become effective, 58.1-604.1, 58.1-608.3, 58.1-611.1, 58.1-614, 58.1-811, 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, 58.1-2706, and 58.1-3221.3, as it is currently effective, of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 15.2-4838.01, 58.1-603.1, 58.1-604.01, and 58.1-802.2 and by adding in Title 58.1 a chapter numbered 22.2, consisting of sections numbered 58.1-2299.21 through 58.1-2299.26; and to repeal Article 22 (§§ 58.1-540 through 58.1-549) of Chapter 3 of Title 58.1 of the Code of Virginia and the second enactment of Chapter 822 of the Acts of Assembly of 2009, as amended by Chapter 535 of the Acts of Assembly of 2012, relating to transportation funding and administration.*

Patrons—Watts and Scott, J.M.

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-4838.1, 33.1-23.03:10, 58.1-300, 58.1-520, as it is currently effective and as it may become effective, 58.1-604.1, 58.1-608.3, 58.1-611.1, 58.1-614, 58.1-811, 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, 58.1-2706, and 58.1-3221.3, as it is currently effective, of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 15.2-4838.01, 58.1-603.1, 58.1-604.01, and 58.1-802.2 and by adding in Title 58.1 a chapter numbered 22.2, consisting of sections numbered 58.1-2291 through 58.1-2296, as follows:

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

There is hereby created in the state treasury a special nonreverting fund to be known as the Northern Virginia Transportation Authority Sales and Use Tax Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All revenues dedicated to the Fund pursuant to §§ 58.1-603.1, 58.1-604.01, and 58.1-802.2, and as may be appropriated by the General Assembly shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

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

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

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

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

B. Forty percent of the revenues under subdivision A 1 shall be distributed on a pro rata basis to each locality that is imposing the real property tax pursuant to § 58.1-3221.3 at a rate of \$0.125 per \$100 of assessed value, with each such locality's share being the total of such fees and taxes assessed or imposed by the Authority and received by the Authority that are generated or attributable to the revenues collected in the locality divided by the total of such fees and taxes assessed or imposed by the Authority and received by the Authority revenues collected in all localities imposing the real property tax pursuant to § 58.1-3221.3 at a rate of \$0.125 per \$100 of assessed value. Of the revenues that may be distributed pursuant to this subsection (i) in the Cities of Alexandria, Fairfax, and Falls Church and the County of Arlington the first 50% shall be used solely for urban or secondary road construction and

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improvements and for public transportation purposes, and (ii) in the remaining localities, the first 50% shall be used solely for urban or secondary road construction and improvements. The remainder, as determined solely by the applicable locality, shall be used either for additional urban or secondary road construction; for other transportation capital improvements which have been approved by the most recent long range transportation plan adopted by the Authority; or for public transportation purposes. Solely for purposes of calculating the 40% of revenues to be distributed pursuant to this subsection, the revenue generated pursuant to § 58.1-3221.3 and Article 8 (§ 15.2-2317 et seq.) of Chapter 22 of this title by the counties and cities embraced by the Authority shall be considered revenue of the Authority. None of the revenue distributed by this subsection may be used to repay debt issued before July 1, 2007. Each locality shall provide annually to the Northern Virginia Transportation Authority sufficient documentation as required by the Authority showing that the funds distributed under this subsection were used as required by this subsection.

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

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

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

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

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

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

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

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

§ 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~~ *existing component of the Interstate Highway System within the Commonwealth*. 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.

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.

§ 58.1-300. Incomes not subject to local taxation.

~~Except as provided in § 58.1-540, no~~ No county, city, town or other political subdivision of this Commonwealth shall impose any tax or levy upon incomes, incomes being hereby segregated for state taxation only.

§ 58.1-520. (Contingent expiration) Definitions.

As used in this article:

"Claimant agency" means any administrative unit of state, county, city or town government, including department, institution, commission, authority, or the office of Executive Secretary of the Supreme Court, any circuit or district court and the Internal Revenue Service. All state agencies and institutions shall participate in the setoff program.

"Debtor" means any individual having a delinquent debt or account with any claimant agency which obligation has not been satisfied by court order, set aside by court order, or discharged in bankruptcy.

"Delinquent debt" means any liquidated sum due and owing any claimant agency, or any restitution ordered paid to a clerk of the court pursuant to Title 19.2, including any amount of court costs or fines which have accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum which is legally collectible and for which a collection effort has been or is being made.

"Mailing date of notice" means the date of notice appearing thereon.

"Refund" means any individual's Virginia state ~~or local~~ income tax refund payable pursuant to §§ 58.1-309 ~~and~~ 58.1-546. This term also includes any refund belonging to a debtor resulting from the filing of a joint income tax return or a refund belonging to a debtor resulting from the filing of a return where husband and wife have elected to file a combined return and separately state their Virginia taxable incomes under the provisions of § 58.1-324 B 2.

§ 58.1-520. (Contingent effective date) Definitions.

As used in this article:

"Claimant agency" means any administrative unit of state, county, city or town government, including department, institution, commission, authority, or the office of Executive Secretary of the Supreme Court, any circuit or district court and the Internal Revenue Service. All state agencies and institutions shall participate in the setoff program.

"Debtor" means any individual having a delinquent debt or account with any claimant agency which obligation has not been satisfied by court order, set aside by court order, or discharged in bankruptcy.

"Delinquent debt" means any liquidated sum due and owing any claimant agency, or any restitution ordered paid to a clerk of the court pursuant to Title 19.2, including any amount of court costs or fines which have accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum which is legally collectible and for which a collection effort has been or is being made.

"Mailing date of notice" means the date of notice appearing thereon.

"Refund" means any individual's (i) Virginia state or local income tax refund payable pursuant to §§ 58.1-309 and 58.1-546 or (ii) federal income tax refund payable pursuant to § 6402 of the Internal Revenue Code. This term also includes any refund belonging to a debtor resulting from the filing of a joint income tax return or a refund belonging to a debtor resulting from the filing of a return where husband and wife have elected to file a combined return and separately state their Virginia taxable incomes under the provisions of § 58.1-324 B 2.

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

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

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

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

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

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

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

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

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

The tax shall be computed on the basis of such proportion of the original purchase price of such property as the duration of time of use in this Commonwealth bears to the total useful life thereof. For

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

A transaction taxed under § 58.1-604, 58.1-605, 58.1-1402, 58.1-1502, 58.1-1736 or 58.1-2402 shall not also be taxed under this section, nor shall the same transaction be taxed more than once under any section.

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

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

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

"Cost," as applied to any public facility or to extensions or additions to any public facility, includes: (i) the purchase price of any public facility acquired by the municipality or the cost of acquiring all of the capital stock of the corporation owning the public facility and the amount to be paid to discharge any obligations in order to vest title to the public facility or any part of it in the municipality; (ii) expenses incident to determining the feasibility or practicability of the public facility; (iii) the cost of plans and specifications, surveys and estimates of costs and of revenues; (iv) the cost of all land, property, rights, easements and franchises acquired; (v) the cost of improvements, property or equipment; (vi) the cost of engineering, legal and other professional services; (vii) the cost of construction or reconstruction; (viii) the cost of all labor, materials, machinery and equipment; (ix) financing charges; (x) interest before and during construction and for up to one year after completion of construction; (xi) start-up costs and operating capital; (xii) payments by a municipality of its share of the cost of any multijurisdictional public facility; (xiii) administrative expense; (xiv) any amounts to be deposited to reserve or replacement funds; and (xv) other expenses as may be necessary or incident to the financing of the public facility. Any obligation or expense incurred by the public facility in connection with any of the foregoing items of cost may be regarded as a part of the cost.

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

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

"Sales tax revenues" means such tax collections realized under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) of this title, as limited herein. "Sales tax revenues" does not include the revenue generated by (i) the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly which shall be paid to the Transportation Trust Fund as defined in § 33.1-23.03:1,

305 ~~nor shall it include~~ (ii) the one percent of the state sales and use tax revenue distributed among the
306 counties and cities of the Commonwealth pursuant to subsection D of § 58.1-638 on the basis of school
307 age population, ~~or (iii) the taxes under §§ 58.1-603.1 and 58.1-604.01.~~ For a public facility that is a
308 sports facility, "sales tax revenues" shall include such revenues generated by transactions taking place
309 upon the premises of a baseball stadium or structures attached thereto.

310 B. Notwithstanding the definition of "public facility" in subsection A, a development project that
311 meets the requirements for a "development of regional impact" set forth herein shall be deemed to be a
312 public facility under the provisions of this section. The locality in which the public facility is located
313 shall be entitled to all sales tax revenues generated by transactions taking place at such public facility
314 solely to pay the cost of any bonds issued to pay the cost, or portion thereof, of such public facility
315 pursuant to subsection C. For purposes of this subsection, the development of regional impact must be
316 located in the City of Bristol.

317 For purposes of this subsection, a "development of regional impact" means a development project (i)
318 towards which the locality contributes infrastructure or real property as part of a public-private
319 partnership with the developer that is equal to at least 20 percent of the aggregate cost of development,
320 (ii) that is reasonably expected to require a capital investment of at least \$50 million, (iii) that is
321 reasonably expected to generate at least \$5 million annually in state sales and use tax revenue from sales
322 within the development, (iv) that is reasonably expected to attract at least one million visitors annually,
323 (v) that is reasonably expected to create at least 2,000 permanent jobs, (vi) that is located in a locality
324 that had a rate of unemployment at least three percentage points higher than the statewide average in
325 November 2011, and (vii) that is located in a locality that is adjacent to a state that has adopted a
326 Border Region Retail Tourism Development District Act. Within 30 days from the date of notification
327 by a locality that it intends to contribute infrastructure or real property as part of a public-private
328 partnership with the developer of a development of regional impact, the Department of Taxation shall
329 review the findings of the locality with respect to clauses (i) through (vi) and shall file a written report
330 with the Chairmen of the House Committee on Finance, the House Committee on Appropriations, and
331 the Senate Committee on Finance.

332 C. Any municipality which has issued bonds (i) after December 31, 1991, but before January 1,
333 1996, (ii) on or after January 1, 1998, but before July 1, 1999, (iii) on or after January 1, 1999, but
334 before July 1, 2001, (iv) on or after July 1, 2000, but before July 1, 2003, (v) on or after July 1, 2001,
335 but before July 1, 2005, (vi) on or after July 1, 2004, but before July 1, 2007, (vii) on or after July 1,
336 2009, but before July 1, 2012, or (viii) on or after January 1, 2011, but prior to July 1, 2015, to pay the
337 cost, or portion thereof, of any public facility shall be entitled to all sales tax revenues generated by
338 transactions taking place in such public facility. Such entitlement shall continue for the lifetime of such
339 bonds, which entitlement shall not exceed 35 years, and all such sales tax revenues shall be applied to
340 repayment of the bonds. The State Comptroller shall remit such sales tax revenues to the municipality
341 on a quarterly basis, subject to such reasonable processing delays as may be required by the Department
342 of Taxation to calculate the actual net sales tax revenues derived from the public facility. The State
343 Comptroller shall make such remittances to eligible municipalities, as provided herein, notwithstanding
344 any provisions to the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.). No
345 such remittances shall be made until construction is completed and, in the case of a renovation or
346 expansion, until the governing body of the municipality has certified that the renovation or expansion is
347 completed.

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

353 **§ 58.1-611.1. Rate of tax on sales of food purchased for human consumption.**

354 A. The tax imposed by §§ 58.1-603 and 58.1-604 on food purchased for human consumption shall be
355 levied and distributed as follows:

356 1. From January 1, 2000, ~~through midnight on June 30, 2005,~~ the tax rate on such food shall be
357 three percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the
358 revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of
359 § 58.1-638, (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in
360 subsections B, C and D of § 58.1-638, and (iii) the revenue from the tax at the rate of one and one-half
361 percent shall be used for general fund purposes.

362 2. ~~On and after~~ From July 1, 2005, ~~through midnight on June 30, 2012,~~ the tax rate on such food
363 shall be one and one-half percent of the gross sales price. The revenue from the tax shall be distributed
364 as follows: (i) the revenue from the tax at the rate of one-half percent shall be distributed as provided in
365 subsection A of § 58.1-638 and (ii) the revenue from the tax at the rate of one percent shall be
366 distributed as provided in subsections B, C and D of § 58.1-638.

3. On and after July 1, 2012, the tax rate on such food shall be one percent of the gross sales price. The revenue from the tax shall be distributed as provided in subsections B, C, and D of § 58.1-638.

B. The provisions of this section shall not affect the imposition of tax on food purchased for human consumption pursuant to §§ 58.1-605 and 58.1-606.

C. As used in this section, "food purchased for human consumption" has the same meaning as "food" defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that Act, except it shall not include seeds and plants which produce food for human consumption. For the purpose of this section, "food purchased for human consumption" shall not include food sold by any retail establishment where the gross receipts derived from the sale of food prepared by such retail establishment for immediate consumption on or off the premises of the retail establishment constitutes more than 80 percent of the total gross receipts of that retail establishment, including but not limited to motor fuel purchases, regardless of whether such prepared food is consumed on the premises of that retail establishment. For purposes of this section, "retail establishment" means each place of business for which any "dealer," as defined in § 58.1-612, is required to apply for and receive a certificate of registration pursuant to § 58.1-613.

§ 58.1-614. Vending machine sales.

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

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

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

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

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

§ 58.1-802.2. Regional congestion relief fee.

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

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

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

§ 58.1-811. Exemptions.

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

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

428 2. To an incorporated church or religious body or to the trustee or trustees of any church or religious
429 body, or a corporation mentioned in § 57-16.1, where such real estate is intended to be used exclusively
430 for religious purposes, or for the residence of the minister of any such church or religious body;
431 3. To the United States, the Commonwealth, or to any county, city, town, district or other political
432 subdivision of the Commonwealth;
433 4. To the Virginia Division of the United Daughters of the Confederacy;
434 5. To any nonstock corporation organized exclusively for the purpose of owning or operating a
435 hospital or hospitals not for pecuniary profit;
436 6. To a corporation upon its organization by persons in control of the corporation in a transaction
437 which qualifies for nonrecognition of gain or loss pursuant to § 351 of the Internal Revenue Code as it
438 exists at the time of the conveyance;
439 7. From a corporation to its stockholders upon complete or partial liquidation of the corporation in a
440 transaction which qualifies for income tax treatment pursuant to § 331, 332, 333 or 337 of the Internal
441 Revenue Code as it exists at the time of liquidation;
442 8. To the surviving or new corporation, partnership, limited partnership, business trust, or limited
443 liability company upon a merger or consolidation to which two or more such entities are parties, or in a
444 reorganization within the meaning of § 368(a)(1)(C) and (F) of the Internal Revenue Code as amended;
445 9. To a subsidiary corporation from its parent corporation, or from a subsidiary corporation to a
446 parent corporation, if the transaction qualifies for nonrecognition of gain or loss under the Internal
447 Revenue Code as amended;
448 10. To a partnership or limited liability company, when the grantors are entitled to receive not less
449 than 50 percent of the profits and surplus of such partnership or limited liability company; provided that
450 the transfer to a limited liability company is not a precursor to a transfer of control of the assets of the
451 company to avoid recordation taxes;
452 11. From a partnership or limited liability company, when the grantees are entitled to receive not less
453 than 50 percent of the profits and surplus of such partnership or limited liability company; provided that
454 the transfer from a limited liability company is not subsequent to a transfer of control of the assets of
455 the company to avoid recordation taxes;
456 12. To trustees of a revocable inter vivos trust, when the grantors in the deed and the beneficiaries of
457 the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust
458 instrument, when no consideration has passed between the grantor and the beneficiaries; and to the
459 original beneficiaries of a trust from the trustees holding title under a deed in trust;
460 13. When the grantor is the personal representative of a decedent's estate or trustee under a will or
461 inter vivos trust of which the decedent was the settlor, other than a security trust defined in § 55-58.1,
462 and the sole purpose of such transfer is to comply with a devise or bequest in the decedent's will or to
463 transfer title to one or more beneficiaries after the death of the settlor in accordance with a dispositive
464 provision in the trust instrument; or
465 14. When the grantor is an organization exempt from taxation under § 501(c)(3) of the Internal
466 Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect
467 or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise
468 would be unable to afford to buy a home through conventional means.
469 B. The taxes imposed by §§ 58.1-803 and 58.1-804 shall not apply to any deed of trust or mortgage:
470 1. Given by an incorporated college or other incorporated institution of learning not conducted for
471 profit;
472 2. Given by the trustee or trustees of a church or religious body or given by an incorporated church
473 or religious body, or given by a corporation mentioned in § 57-16.1;
474 3. Given by any nonstock corporation organized exclusively for the purpose of owning and/or
475 operating a hospital or hospitals not for pecuniary profit;
476 4. Given by any local governmental entity or political subdivision of the Commonwealth to secure a
477 debt payable to any other local governmental entity or political subdivision; or
478 5. Securing a loan made by an organization described in subdivision 14 of subsection A of this
479 section.
480 C. The tax imposed by § 58.1-802 *and the fee imposed by § 58.1-802.2* shall not apply to any:
481 1. Transaction described in subdivisions 6 through 13 of subsection A of this section;
482 2. Instrument or writing given to secure a debt;
483 3. Deed conveying real estate from an incorporated college or other incorporated institution of
484 learning not conducted for profit;
485 4. Deed conveying real estate from the United States, the Commonwealth or any county, city, town,
486 district or other political subdivision thereof;
487 5. Conveyance of real estate to the Commonwealth or any county, city, town, district or other
488 political subdivision thereof, if such political unit is required by law to reimburse the parties taxable
489 pursuant to § 58.1-802 *or subject to the fee under § 58.1-802.2*; or

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

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

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

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

G. The words "trustee" or "trustees," as used in subdivision 2 of subsection A, subdivision 2 of subsection B, and subdivision 6 of subsection C, include the trustees mentioned in § 57-8 and the ecclesiastical officers mentioned in § 57-16.

H. No recordation tax levied pursuant to this chapter shall be levied on the release of a contractual right, if the release is contained within a single deed that performs more than one function, and at least one of the other functions performed by the deed is subject to the recordation tax.

I. No recordation tax levied pursuant to this chapter shall be levied on a deed, lease, easement, release, or other document recorded in connection with a concession pursuant to the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) or similar federal law.

§ 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 January 1, 2014, and every January 1 thereafter, the rate shall be adjusted by a percentage, as determined by the Commissioner and rounded up to the closest one-tenth of one percent, equal to the average percentage change in the U.S. Department of Transportation's Transportation Services Index for the 36 months ending October 31 of the year immediately preceding the affected year.

B. (Contingent expiration date) 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) 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 *per gallon at the rate of ~~seventeen and one-half~~ cents same rate in effect pursuant to subsection A* per gallon, along with any penalties and interest that may accrue.

E. (Contingent expiration date) 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 *per gallon imposed at the rate of ~~seventeen and one-half~~ cents per gallon, same rate in effect pursuant to subsection A*, along with any penalties and interest that may accrue.

E. (Contingent effective date) 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.

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

554 **§ 58.1-2249. Tax on alternative fuel.**

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

562 A. (Contingent effective date) There is hereby levied a tax at the rate of ~~sixteen~~ 1.5 cents per gallon
563 (\$0.015) less than the rate in effect pursuant to subsection A of § 58.1-2217 on each gallon of liquid
564 alternative fuel used to operate a highway vehicle by means of a vehicle supply tank that stores fuel
565 only for the purpose of supplying fuel to operate the vehicle. There is hereby levied a tax at a rate
566 equivalent to ~~sixteen~~ 1.5 cents per gallon (\$0.015) less than the rate in effect pursuant to subsection A
567 of § 58.1-2217 on each gallon of all other alternative fuel used to operate a highway vehicle. The
568 Commissioner shall determine the equivalent rate applicable to such other alternative fuels.

569 B. In addition to any tax imposed by this article, there is hereby levied an annual license tax of \$50
570 \$100 per vehicle on each highway vehicle registered in Virginia that is an electric motor vehicle.
571 Beginning January 1, 2014, and each January 1 thereafter, the amount of the license tax shall be
572 adjusted by the same percentage adjustment to the tax rate pursuant to subsection A of § 58.1-2217. If
573 such a highway vehicle is registered for a period other than one year as provided under § 46.2-646, the
574 license tax shall be multiplied by the number of years or fraction thereof that the vehicle will be
575 registered.

576 **§ 58.1-2289. (Contingent effective date) Disposition of tax revenue generally.**

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

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

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

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

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

D. One and one-half cents (\$0.015) of the tax collected on each gallon of fuel used to propel a commercial watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of the state treasury to be made available to the Board of Game and Inland Fisheries until expended for the purposes provided generally in subsection C of § 29.1-701, including acquisition, construction, improvement, and maintenance of public boating access areas on the public waters of this the Commonwealth and for other activities and purposes of direct benefit and interest to the boating public and for no other purpose. However, ~~one and one-half~~ 1.5 cents (\$0.015) per gallon on fuel used by commercial fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be used for the construction, repair, improvement, and maintenance of the public docks of this the Commonwealth used by said commercial watercraft. Any expenditures for the acquisition, construction, improvement, and maintenance of the public docks shall be made according to a plan developed by the Virginia Marine Resources Commission.

From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for the propelling of watercraft, after deduction for lawful refunds, 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.

CHAPTER 22.2.

TRANSPORTATION INFRASTRUCTURE USER FEE.

§ 58.1-2299.21 Definitions.

As used in this chapter, unless the context requires a different meaning:

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

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

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

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

§ 58.1-2299.22. Rules and regulations.

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

§ 58.1-2299.23. Fee on fuels sold in the Commonwealth.

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

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

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

For purposes of compensating a distributor for accounting for and remitting the fee imposed by this chapter, such distributor shall be allowed to deduct two percent of the fee otherwise due in submitting

674 *his return and paying the amount due by him if the amount is not delinquent at the time of payment.*

675 **§ 58.1-2299.24. Exclusion from professional license tax.**

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

679 **§ 58.1-2299.25. Disposition of fees.**

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

686 **§ 58.1-2299.26. Disclosure of information; penalties.**

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

692 **§ 58.1-2701. (Contingent expiration date) Amount of tax.**

693 *A. Except as provided in subsection B, every motor carrier shall pay a road tax equivalent to ~~\$0.24~~*
694 *\$0.035 more per gallon than the rate in effect pursuant to subsection A of § 58.1-2217, calculated on the*
695 *amount of motor fuel, diesel fuel, or liquefied gases (which would not exist as liquids at a temperature*
696 *of ~~sixty~~ 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute), used in its*
697 *operations within the Commonwealth.*

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

700 *B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles*
701 *that are not registered under the International Registration Plan shall pay a fee of \$150 per year for each*
702 *qualified highway vehicle regardless of whether such vehicle will be included on the motor carrier's*
703 *IFTA return. The fee is due and payable when the vehicle registration fees are paid pursuant to the*
704 *provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2. Beginning January 1, 2014, and*
705 *each January 1 thereafter, the amount of the fee under this subsection shall be adjusted by the same*
706 *percentage of the tax rate adjustment pursuant to subsection A of § 58.1-2217.*

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

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

713 **§ 58.1-2701. (Contingent effective date) Amount of tax.**

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

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

721 *B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles*
722 *that are not registered under the International Registration Plan shall pay a fee of \$100 per year for each*
723 *qualified highway vehicle, regardless of whether such vehicle will be included on the motor carrier's*
724 *IFTA return. The fee is due and payable when the vehicle registration fees are paid pursuant to the*
725 *provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2. Beginning January 1, 2014, and*
726 *each January 1 thereafter, the amount of the fee under this subsection shall be adjusted by the same*
727 *percentage adjustment to the tax rate pursuant to subsection A of § 58.1-2217.*

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

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

734 **§ 58.1-2706. Credit for payment of motor fuel, diesel fuel, or liquefied gases tax.**

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

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

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

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

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

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

§ 58.1-3221.3. (Effective until June 30, 2018) Classification of certain commercial and industrial real property and taxation of such property by certain localities.

A. Beginning January 1, 2008, and solely for the purposes of imposing the tax authorized pursuant to this section, in the counties and cities that are wholly embraced by the Northern Virginia Transportation Authority and the Hampton Roads metropolitan planning area as of January 1, 2008, pursuant to § 134 of Title 23 of the United States Code, all real property used for or zoned to permit commercial or industrial uses is hereby declared to be a separate class of real property for local taxation. Such classification of real property shall exclude all residential uses and all multifamily residential uses, including but not limited to single family residential units, cooperatives, condominiums, townhouses, apartments, or homes in a subdivision when leased on a unit by unit basis even though these units may be part of a larger building or parcel of real estate containing more than four residential units.

B. In addition to all other taxes and fees permitted by law, (i) the governing body of any locality embraced by the Northern Virginia Transportation Authority may, by ordinance, annually impose on all real property in the locality specially classified in subsection A: an amount of real property tax, in addition to such amount otherwise authorized by law, at a rate not to exceed \$0.125 per \$100 of assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit commercial or industrial uses; and (ii) the governing body of any locality wholly embraced by the Hampton Roads metropolitan planning area as of January 1, 2008, pursuant to § 134 of Title 23 of the United States Code may, by ordinance, annually impose on all real property in the locality specially classified in subsection A: an amount of real property tax, in addition to such amount otherwise authorized by law, at a rate not to exceed ~~\$0.10~~ \$0.125 per \$100 of assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit commercial or industrial uses. The authority granted in this subsection shall be subject to the following conditions:

(1) Upon appropriation, all revenues generated from the additional real property tax imposed shall be used to benefit the locality imposing the tax solely for (i) new road construction and associated planning, design, and right-of-way acquisition, including new additions to, expansions, or extensions of existing roads that add new capacity, service, or access, (ii) new public transit construction and associated planning, design, and right-of-way acquisition, including new additions to, expansions, or extensions of existing public transit projects that add new capacity, service, or access, (iii) other capital costs related to new transportation projects that add new capacity, service, or access and the operating costs directly related to the foregoing, or (iv) the issuance costs and debt service on bonds that may be issued to support the capital costs permitted in subdivisions (i), (ii), or (iii); and

(2) The additional real property tax imposed shall be levied, administered, enforced, and collected in the same manner as set forth in Subtitle III of Title 58.1 for the levy, administration, enforcement, and collection of local taxes. In addition, the local assessor shall separately assess and set forth upon the locality's land book the fair market value of that portion of property that is defined as a separate class of real property for local taxation in accordance with the provisions of this section.

C. Beginning January 1, 2008, in lieu of the authority set forth in subsections A and B above and

797 solely for the purposes of imposing the tax authorized pursuant to this section, in the counties and cities
798 wholly embraced by the Northern Virginia Transportation Authority and the Hampton Roads
799 metropolitan planning area as of January 1, 2008, pursuant to § 134 of Title 23 of the United States
800 Code, all real property used for or zoned to permit commercial or industrial uses is hereby declared to
801 be a separate class of real property for local taxation. Such classification of real property shall exclude
802 all residential uses and all multifamily residential uses, including but not limited to single family
803 residential units, cooperatives, condominiums, townhouses, apartments, or homes in a subdivision when
804 leased on a unit by unit basis even though these units may be part of a larger building or parcel of real
805 estate containing more than four residential units.

806 D. In addition to all other taxes and fees permitted by law, (i) the governing body of any locality
807 embraced by the Northern Virginia Transportation Authority may, by ordinance, create within its
808 boundaries, one or more special regional transportation tax districts and, thereafter, may, by ordinance,
809 impose upon the real property located in special regional transportation tax districts specially classified
810 in subsection C within such special regional transportation tax districts: an amount of real property tax,
811 in addition to such amounts otherwise authorized by law, at a rate not to exceed \$0.125 per \$100 of
812 assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all
813 real property used for or zoned to permit commercial or industrial uses; and, (ii) the governing body of
814 any locality wholly embraced by the Hampton Roads metropolitan planning area as of January 1, 2008,
815 pursuant to § 134 of Title 23 of the United States Code may, by ordinance, create within its boundaries,
816 one or more special regional transportation tax districts and, thereafter, may, by ordinance, impose upon
817 the real property specially classified in subsection C within such special regional transportation tax
818 districts: an amount of real property tax, in addition to such amounts otherwise authorized by law, at a
819 rate not to exceed ~~\$0.10~~ \$0.125 per \$100 of assessed value as the governing body may, by ordinance,
820 impose upon the annual assessed value of all real property used for or zoned to permit commercial or
821 industrial uses. The authority granted in this subsection shall be subject to the following conditions:

822 (1) Notwithstanding any other provisions of law to the contrary, upon appropriation, all revenues
823 generated from the additional real property taxes imposed in accordance with subsection C and this
824 subsection shall be used for transportation purposes that benefit the special regional transportation tax
825 district to which such revenue is attributable and solely for (i) new road construction and associated
826 planning, design, and right-of-way acquisition, including new additions to, expansions, or extensions of
827 existing roads that add new capacity, service, or access, (ii) new public transit construction and
828 associated planning, design, and right-of-way acquisition, including new additions to, expansions, or
829 extensions of existing public transit projects that add new capacity, service, or access, (iii) other capital
830 costs related to new transportation projects that add new capacity, service, or access and the operating
831 costs directly related to the foregoing, or (iv) the issuance costs and debt service on bonds that may be
832 issued to support the capital costs permitted in subdivisions (i), (ii), or (iii);

833 (2) Any local ordinance adopted in accordance with the provisions of subsection C and this
834 subsection shall include the requirement that the additional real property taxes so authorized are to be
835 imposed annually in accordance with applicable law;

836 (3) Any locality that imposes the additional real property taxes set forth in subsections A and B shall
837 not be permitted to also impose the additional real property taxes set forth in subsection C and this
838 subsection. In addition, any locality electing to impose the additional real property taxes on all real
839 property located in such locality that is specially classified in subsections A and B must do so in the
840 manner prescribed in subsections A and B and not by creation of a special transportation tax district as
841 set forth in subsection C and this subsection. The creation of such special regional transportation tax
842 districts shall not, however, affect the authority of a locality to establish tax districts pursuant to other
843 provisions of law;

844 (4) The total revenues generated from the additional real property taxes imposed in accordance with
845 subsection C and this subsection shall not be less than 85% of the revenues estimated to be generated
846 when imposing the additional real property taxes in accordance with subsections A and B at the rate of
847 \$0.125 per \$100 of assessed value in any locality embraced by the Northern Virginia Transportation
848 Authority and at the rate of ~~\$0.10~~ \$0.125 per \$100 of assessed value in any locality wholly embraced by
849 the Hampton Roads metropolitan planning area as of January 1, 2008, pursuant to § 134 of Title 23 of
850 the United States Code; and

851 (5) The additional real property taxes imposed pursuant to subsection C and this subsection shall be
852 levied, administered, enforced, and collected, in the same manner as set forth in Subtitle III of Title 58.1
853 for the levy, administration, enforcement, and collection of all local taxes. In addition, the local assessor
854 shall separately assess and set forth upon the locality's land book the fair market value of that portion of
855 property that is defined as separate class of real property for local taxation in accordance with the
856 provisions of this section.

857 2. That Article 22 (§§ 58.1-540 through 58.1-549) of Chapter 3 of Title 58.1 of the Code of
858 Virginia and the second enactment of Chapter 822 of the Acts of Assembly of 2009, as amended

859 by Chapter 535 of the Acts of Assembly of 2012, are repealed.

860 3. That the Northern Virginia Transportation Authority and the counties and cities embraced by
861 the Authority shall work cooperatively with towns with a population greater than 3,500 located
862 within such counties for purposes of implementing the provisions of this act.

863 4. That all additional net revenues collected by virtue of the provisions in § 58.1-2293 of the Code
864 of Virginia in the first enactment of this act shall be used solely for highway maintenance.

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

870 6. That this act shall be known as the "Comprehensive Transportation and Job Creation Act of
871 2013."

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