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HOUSE BILL NO. 2063

Offered January 9, 2013

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A *BILL to amend and reenact §§ 33.1-23.03:1, 33.1-221.1:1.3, 58.1-540, 58.1-602, 58.1-608.3, 58.1-2201, 58.1-2249, 58.1-2261, 58.1-2289, as it is currently effective and 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; to amend the Code of Virginia by adding sections numbered 15.2-4217.2 and 58.1-604.7, by adding in Title 58.1 a chapter numbered 8.1, consisting of a section numbered 58.1-818, by adding a section numbered 58.1-2259.1, and by adding in Chapter 22 of Title 58.1 an article numbered 8.1, consisting of a section numbered 58.1-2288.1; and to repeal § 58.1-438.1 of the Code of Virginia, relating to establishing and adjusting sources of revenue for appropriations of the Commonwealth and its localities.*

 Patrons—Rust and Minchew

 Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-23.03:1, 33.1-221.1:1.3, 58.1-540, 58.1-602, 58.1-608.3, 58.1-2201, 58.1-2249, 58.1-2261, 58.1-2289, as it is currently effective and as it may become effective, 58.1-2701, as it is currently effective and as it may become effective, and 58.1-2706 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 15.2-4217.2 and 58.1-604.7, by adding in Title 58.1 a chapter numbered 8.1, consisting of a section numbered 58.1-818, by adding a section numbered 58.1-2259.1, and by adding in Chapter 22 of Title 58.1 an article numbered 8.1, consisting of a section numbered 58.1-2288.1, as follows:

§ 15.2-4217.2. Transportation Fund for planning district commissions authorized.

A. A planning district commission may create a transportation fund to be used to fund transportation projects located within the boundaries of the planning district, with such projects to be chosen based upon the criteria set forth in this section. The fund shall be created in the state treasury and shall be a special nonreverting fund to be known as the "Transportation Fund of the [fill in the name] Planning District Commission" ("the Fund"). Such Fund shall be established on the books of the Comptroller. All revenues authorized 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 solely for the purposes of transportation projects that improve mobility and safety within the boundaries of the planning district for which the Fund is established. 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 director or chief executive of the planning district commission.

B. A planning district commission shall be entitled to revenues generated in the localities located within the planning district pursuant to § 58.1-604.7 and Chapter 8.1 (§ 58.1-818) of Title 58.1, and such funds shall be distributed to the Fund established by a planning district commission pursuant to this section, but only if the General Assembly, in the regular session immediately following the satisfaction of the requirements set forth in this section, specifically authorizes the imposition of the taxes set forth in § 58.1-604.7 and in Chapter 8.1 (§ 58.1-818) of Title 58.1 in the localities located within the planning district.

C. In order to be eligible to receive the revenues set forth in subsection B, a planning district commission, or a transportation planning entity of the planning district commission, shall compile a list, in order of priority, of the top 10 transportation-related projects within the planning district for which the transportation fund may be used. If applicable, the criteria and methodology set forth in § 33.1-13.03:1 shall be followed. If not applicable, criteria and methodology similar to that set forth in § 33.1-13.03:1 shall be utilized in compiling and prioritizing such list. The list shall be updated at least once every four years for as long as the Fund receives the revenues set forth in subsection B.

D. In order to be eligible to receive the revenues set forth in subsection B, the governing bodies of localities located within the planning district that represent at least a majority of the population residing within the planning district shall adopt a resolution supporting the funding of the transportation projects determined pursuant to subsection C through the imposition of the sales and use tax set forth in § 58.1-604.7 and the recordation tax set forth in Chapter 8.1 (§ 58.1-818) of Title 58.1. Such resolution shall only be voted upon by the governing body of a locality after the locality holds at least one public

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59 *hearing concerning the imposition of the taxes within the locality.*

60 *D. No expenditures from or other use of moneys in a fund created pursuant to this section shall be*
61 *considered in allocating highway maintenance and construction funds under § 33.1-23.1 or*
62 *apportioning Transportation Trust Fund funds under § 58.1-638, but shall be in addition thereto.*

63 **§ 33.1-23.03:1. Transportation Trust Fund.**

64 There is hereby created in the Department of the Treasury a special nonreverting fund to be known
65 as the Transportation Trust Fund, consisting of:

66 1. Funds remaining for highway construction purposes, among the several highway systems pursuant
67 to § 33.1-23.1.

68 2. [Repealed.]

69 3. The additional revenues generated by enactments of Chapters 11, 12 and 15 of the Acts of
70 Assembly, 1986 Special Session, and designated for this fund.

71 4. Tolls and other revenues derived from the projects financed or refinanced pursuant to this title
72 which are payable into the state treasury and tolls and other revenues derived from other transportation
73 projects, which may include upon the request of the applicable appointed governing body, as soon as
74 their obligations have been satisfied, such tolls and revenue derived for transportation projects pursuant
75 to § 33.1-253 (Chesapeake Bay Bridge and Tunnel District) and to the Richmond Metropolitan
76 Authority, established in Chapter 70 (§ 15.2-7000 et seq.) of Title 15.2, or if the appointed governing
77 body requests refunding or advanced refunding by the Board and such refunding or advanced refunding
78 is approved by the General Assembly. Such funds shall be held in separate subaccounts of the
79 Transportation Trust Fund to the extent required by law or the Board.

80 5. Tolls and other revenues derived from the Richmond-Petersburg Turnpike, provided that such
81 funds shall be held in a separate subaccount of the Transportation Trust Fund and allocated as set forth
82 in Chapter 574 of the Acts of Assembly of 1983 until expiration of that Act.

83 6. Such other funds as may be appropriated by the General Assembly from time to time, and
84 designated for this fund.

85 7. All interest, dividends and appreciation which may accrue to the Transportation Trust Fund and
86 the Highway Maintenance and Construction Fund, except that interest on funds becoming part of the
87 Transportation Trust Fund under subdivision 1 and the Highway Maintenance and Construction Fund
88 shall not become part of the Transportation Trust Fund until July 1, 1988.

89 8. All amounts required by contract to be paid over to the Transportation Trust Fund.

90 9. Concession payments paid to the Commonwealth by a private entity pursuant to the Public-Private
91 Transportation Act of 1995 (§ 56-556 et seq.).

92 10. *Revenues generated by § 58.1-2288.1 and designated for this fund pursuant to § 58.1-2289.*

93 **§ 33.1-221.1:1.3. Intercity Passenger Rail Operating and Capital Fund.**

94 A. The General Assembly declares it to be in the public interest that developing and continuing
95 intercity passenger rail operations and the development of rail infrastructure, rolling stock, and support
96 facilities to support intercity passenger rail service are important elements of a balanced transportation
97 system in the Commonwealth and further declares it to be in the public interest that the retention,
98 maintenance, improvement, and development of intercity passenger rail-related infrastructure
99 improvements and operations are essential to the Commonwealth's continued economic growth, vitality,
100 and competitiveness in national and world markets.

101 B. There is hereby created in the state treasury a special nonreverting fund to be known as the
102 Intercity Passenger Rail Operating and Capital Fund, which shall be considered a special fund within the
103 Transportation Trust Fund. The Intercity Passenger Rail Operating and Capital Fund shall be established
104 on the books of the Comptroller and shall consist of funds as may be set forth in the appropriation act,
105 *revenues generated by § 58.1-2288.1 and designated for the Intercity Passenger Rail Operating and*
106 *Capital Fund pursuant to § 58.1-2289, and by allocation of funds allocated for operations and projects*
107 *pursuant to this section by the Commonwealth Transportation Board in accordance with § 33.1-23.1.*
108 Interest earned on moneys in the Intercity Passenger Rail Operating and Capital Fund shall remain in the
109 Intercity Passenger Rail Operating and Capital Fund and be credited to it. Any moneys remaining in the
110 Intercity Passenger Rail Operating and Capital Fund, including interest thereon, at the end of each fiscal
111 year shall not revert to the general fund but shall remain in the Intercity Passenger Rail Operating and
112 Capital Fund. Moneys in the Intercity Passenger Rail Operating and Capital Fund shall be used solely as
113 provided in this section. Expenditures and disbursements from the Intercity Passenger Rail Operating and
114 Capital Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written
115 request signed by the Director of the Virginia Department of Rail and Public Transportation or his
116 designee.

117 C. The Director of the Virginia Department of Rail and Public Transportation or his designee shall
118 administer and expend or commit, subject to the approval of the Commonwealth Transportation Board,
119 the Intercity Passenger Rail Operating and Capital Fund to support the cost of operating intercity
120 passenger rail service; acquiring, leasing, and/or improving railways or railroad equipment, rolling stock,

rights-of-way, or facilities; or assisting other appropriate entities to acquire, lease, or improve railways or railroad equipment, rolling stock, rights-of-way, or facilities for intercity passenger rail transportation purposes whenever the Board shall have determined that such acquisition, lease, and/or improvement is for the common good of a region of the Commonwealth or the Commonwealth as a whole. Funds provided in this section may also be used as matching funds for federal grants to support intercity passenger rail projects.

D. Capital projects including tracks and facilities constructed and property, equipment, and rolling stock purchased with funds under this section shall be the property of the Commonwealth for the useful life of the project, as determined by the Director of the Department of Rail and Public Transportation, and shall be made available for use by all intercity passenger rail operations and common carriers using the railway system to which they connect under the trackage rights or operating agreements between the parties. Projects undertaken pursuant to this section shall be limited to those of a region of the Commonwealth or the Commonwealth as a whole. Such projects undertaken pursuant to this section shall not require a matching contribution; however, projects proposed with matching funds may receive more favorable consideration. Matching funds may be provided from any source except Commonwealth Transportation Fund revenues.

§ 58.1-540. Levy of the tax.

A. The Counties of Arlington, Fairfax, Loudoun, and Prince William, and the Cities of Alexandria, Fairfax, Falls Church, Manassas, Manassas Park, Norfolk, and Virginia Beach hereby authorized to levy a local income tax at any increment of one-quarter percent up to a maximum rate of one percent upon the Virginia taxable income as determined in § 58.1-322 for an individual, § 58.1-361 for a fiduciary of an estate or trust, or § 58.1-402 for a corporation, for each taxable year of every resident of such county or city or corporation having income from sources within such county or city, subject to the limitations of subsection B of this section. The same rate shall apply to individuals, fiduciaries and corporations.

B. The authority to levy a local income tax as provided in subsection A may be exercised by a county or city governing body only if approved in a referendum within the county or city. The referendum shall be held in accordance with § 24.2-684. The referendum may be initiated either by a resolution of the governing body of the county or city or on the filing of a petition signed by a number of registered voters of the county or city equal in number to ten percent of the number of voters registered in the county or city on January 1 of the year in which the petition is filed with the circuit court of such county or city. The clerk of the circuit court shall publish notice of the election in a newspaper of general circulation in the county or city once a week for three consecutive weeks prior to the election. The ballot used shall be printed to read as follows:

"Shall the governing body of (.... name of county or city) have the authority to levy a local income tax of up to one percent for transportation purposes in accordance with § 58.1-540 of the Code of Virginia?"

☐ Yes

☐ No

If the voters by a majority vote approve the authority of the local governing body to levy a local income tax, the tax may be imposed by the adoption of an ordinance by the governing body of the county or city in accordance with general or special law, and the tax may be thereafter enacted, modified or repealed as any other tax the governing body is empowered to levy subject only to the limitations herein. No ordinance levying a local income tax shall be repealed unless and until all debts or other obligations of the county or city to which such revenues are pledged or otherwise committed have been paid or provision made for payment.

C. Notwithstanding the provisions of subsection A, no locality may levy a local income tax pursuant to this article if the locality is located in a planning district (i) that has met the requirements of § 15.2-4217.2 and (ii) in which the General Assembly has explicitly authorized the imposition of the taxes set forth in § 58.1-604.7 and Chapter 8.1 (§ 58.1-818).

§ 58.1-602. Definitions.

As used in this chapter, unless the context clearly shows otherwise, the term or phrase:

"Advertising" means the planning, creating, or placing of advertising in newspapers, magazines, billboards, broadcasting and other media, including, without limitation, the providing of concept, writing, graphic design, mechanical art, photography and production supervision. Any person providing advertising as defined herein shall be deemed to be the user or consumer of all tangible personal property purchased for use in such advertising.

"Amplification, transmission and distribution equipment" means, but is not limited to, production, distribution, and other equipment used to provide Internet-access services, such as computer and communications equipment and software used for storing, processing and retrieving end-user subscribers' requests.

"Business" includes any activity engaged in by any person, or caused to be engaged in by him, with

182 the object of gain, benefit or advantage, either directly or indirectly.

183 "Cost price" means the actual cost of an item or article of tangible personal property computed in the
184 same manner as the sales price as defined in this section without any deductions therefrom on account
185 of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever.

186 "Custom program" means a computer program which is specifically designed and developed only for
187 one customer. The combining of two or more prewritten programs does not constitute a custom
188 computer program. A prewritten program that is modified to any degree remains a prewritten program
189 and does not become custom.

190 "Distribution" means the transfer or delivery of tangible personal property for use, consumption, or
191 storage by the distributee, and the use, consumption, or storage of tangible personal property by a
192 person who has processed, manufactured, refined, or converted such property, but does not include the
193 transfer or delivery of tangible personal property for resale or any use, consumption, or storage
194 otherwise exempt under this chapter.

195 "Gross proceeds" means the charges made or voluntary contributions received for the lease or rental
196 of tangible personal property or for furnishing services, computed with the same deductions, where
197 applicable, as for sales price as defined in this section over the term of the lease, rental, service, or use,
198 but not less frequently than monthly.

199 "Gross sales" means the sum total of all retail sales of tangible personal property or services as
200 defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" shall not
201 include the federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the
202 Internal Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the
203 article, or the Virginia retail sales or use tax, or any sales or use tax imposed by any county or city
204 under § 58.1-605 or 58.1-606, *or any sales and use tax imposed under § 58.1-604.7.*

205 "Import" and "imported" are words applicable to tangible personal property imported into the
206 Commonwealth from other states as well as from foreign countries, and "export" and "exported" are
207 words applicable to tangible personal property exported from the Commonwealth to other states as well
208 as to foreign countries.

209 "In this Commonwealth" or "in the Commonwealth" means within the limits of the Commonwealth
210 of Virginia and includes all territory within these limits owned by or ceded to the United States of
211 America.

212 "Integrated process," when used in relation to semiconductor manufacturing, means a process that
213 begins with the research or development of semiconductor products, equipment, or processes, includes
214 the handling and storage of raw materials at a plant site, and continues to the point that the product is
215 packaged for final sale and either shipped or conveyed to a warehouse. Without limiting the foregoing,
216 any semiconductor equipment, fuel, power, energy, supplies, or other tangible personal property shall be
217 deemed used as part of the integrated process if its use contributes, before, during, or after production,
218 to higher product quality, production yields, or process efficiencies. Except as otherwise provided by
219 law, such term shall not mean general maintenance or administration.

220 "Internet" means collectively, the myriad of computer and telecommunications facilities, which
221 comprise the interconnected world-wide network of computer networks.

222 "Internet service" means a service that enables users to access proprietary and other content,
223 information electronic mail, and the Internet as part of a package of services sold to end-user
224 subscribers.

225 "Lease or rental" means the leasing or renting of tangible personal property and the possession or use
226 thereof by the lessee or renter for a consideration, without transfer of the title to such property.

227 "Manufacturing, processing, refining, or conversion" includes the production line of the plant starting
228 with the handling and storage of raw materials at the plant site and continuing through the last step of
229 production where the product is finished or completed for sale and conveyed to a warehouse at the
230 production site, and also includes equipment and supplies used for production line testing and quality
231 control. The term "manufacturing" shall also include the necessary ancillary activities of newspaper and
232 magazine printing when such activities are performed by the publisher of any newspaper or magazine
233 for sale daily or regularly at average intervals not exceeding three months.

234 The determination whether any manufacturing, mining, processing, refining or conversion activity is
235 industrial in nature shall be made without regard to plant size, existence or size of finished product
236 inventory, degree of mechanization, amount of capital investment, number of employees or other factors
237 relating principally to the size of the business. Further, "industrial in nature" shall include, but not be
238 limited to, those businesses classified in codes 10 through 14 and 20 through 39 published in the
239 Standard Industrial Classification Manual for 1972 and any supplements issued thereafter.

240 "Modular building" means, but shall not be limited to, single and multifamily houses, apartment
241 units, commercial buildings, and permanent additions thereof, comprised of one or more sections that are
242 intended to become real property, primarily constructed at a location other than the permanent site, built
243 to comply with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.) as regulated by the

Virginia Department of Housing and Community Development, and shipped with most permanent components in place to the site of final assembly. For purposes of this chapter, a modular building shall not include a mobile office as defined in § 58.1-2401 or any manufactured building subject to and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.).

"Modular building manufacturer" means a person or corporation who owns or operates a manufacturing facility and is engaged in the fabrication, construction and assembling of building supplies and materials into modular buildings, as defined in this section, at a location other than at the site where the modular building will be assembled on the permanent foundation and may or may not be engaged in the process of affixing the modules to the foundation at the permanent site.

"Modular building retailer" means any person who purchases or acquires a modular building from a modular building manufacturer, or from another person, for subsequent sale to a customer residing within or outside of the Commonwealth, with or without installation of the modular building to the foundation at the permanent site.

"Motor vehicle" means a "motor vehicle" as defined in § 58.1-2401, taxable under the provisions of the Virginia Motor Vehicles Sales and Use Tax Act (§ 58.1-2400 et seq.) and upon the sale of which all applicable motor vehicle sales and use taxes have been paid.

"Occasional sale" means a sale of tangible personal property not held or used by a seller in the course of an activity for which he is required to hold a certificate of registration, including the sale or exchange of all or substantially all the assets of any business and the reorganization or liquidation of any business, provided such sale or exchange is not one of a series of sales and exchanges sufficient in number, scope and character to constitute an activity requiring the holding of a certificate of registration.

"Open video system" means an open video system authorized pursuant to 47 U.S.C. § 573 and, for purposes of this chapter only, shall also include Internet service regardless of whether the provider of such service is also a telephone common carrier.

"Person" includes any individual, firm, copartnership, cooperative, nonprofit membership corporation, joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver, auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit, body politic or political subdivision, whether public or private, or quasi-public, and the plural of such term shall mean the same as the singular.

"Prewritten program" means a computer program that is prepared, held or existing for general or repeated sale or lease, including a computer program developed for in-house use and subsequently sold or leased to unrelated third parties.

"Railroad rolling stock" means locomotives, of whatever motive power, autocars, railroad cars of every kind and description, and all other equipment determined by the Tax Commissioner to constitute railroad rolling stock.

"Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in the form of tangible personal property or services taxable under this chapter, and shall include any such transaction as the Tax Commissioner upon investigation finds to be in lieu of a sale. All sales for resale must be made in strict compliance with regulations applicable to this chapter. Any dealer making a sale for resale which is not in strict compliance with such regulations shall be personally liable for payment of the tax.

The terms "retail sale" and a "sale at retail" shall specifically include the following: (i) the sale or charges for any room or rooms, lodgings, or accommodations furnished to transients for less than 90 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration; (ii) sales of tangible personal property to persons for resale when because of the operation of the business, or its very nature, or the lack of a place of business in which to display a certificate of registration, or the lack of a place of business in which to keep records, or the lack of adequate records, or because such persons are minors or transients, or because such persons are engaged in essentially service businesses, or for any other reason there is likelihood that the Commonwealth will lose tax funds due to the difficulty of policing such business operations; and (iii) the separately stated charge made for automotive refinish repair materials that are permanently applied to or affixed to a motor vehicle during its repair. The Tax Commissioner is authorized to promulgate regulations requiring vendors of or sellers to such persons to collect the tax imposed by this chapter on the cost price of such tangible personal property to such persons and may refuse to issue certificates of registration to such persons.

The term "transient" shall not include a purchaser of camping memberships, time-shares, condominiums, or other similar contracts or interests that permit the use of, or constitute an interest in, real estate, however created or sold and whether registered with the Commonwealth or not. Further, a purchaser of a right or license which entitles the purchaser to use the amenities and facilities of a

305 specific real estate project on an ongoing basis throughout its term shall not be deemed a transient;
306 provided, however, that the term or time period involved is for seven years or more.

307 The terms "retail sale" and "sale at retail" shall not include a transfer of title to tangible personal
308 property after its use as tools, tooling, machinery or equipment, including dies, molds, and patterns, if (i)
309 at the time of purchase, the purchaser is obligated, under the terms of a written contract, to make the
310 transfer and (ii) the transfer is made for the same or a greater consideration to the person for whom the
311 purchaser manufactures goods.

312 "Retailer" means every person engaged in the business of making sales at retail, or for distribution,
313 use, consumption, or storage to be used or consumed in the Commonwealth.

314 "Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional
315 or otherwise, in any manner or by any means whatsoever, of tangible personal property and any
316 rendition of a taxable service for a consideration, and includes the fabrication of tangible personal
317 property for consumers who furnish, either directly or indirectly, the materials used in fabrication, and
318 the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on
319 the premises of the person furnishing, preparing, or serving such tangible personal property. A
320 transaction whereby the possession of property is transferred but the seller retains title as security for the
321 payment of the price shall be deemed a sale.

322 "Sales price" means the total amount for which tangible personal property or services are sold,
323 including any services that are a part of the sale, valued in money, whether paid in money or otherwise,
324 and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer,
325 without any deduction therefrom on account of the cost of the property sold, the cost of materials used,
326 labor or service costs, losses or any other expenses whatsoever. "Sales price" shall not include (i) any
327 cash discount allowed and taken; (ii) finance charges, carrying charges, service charges or interest from
328 credit extended on sales of tangible personal property under conditional sale contracts or other
329 conditional contracts providing for deferred payments of the purchase price; (iii) separately stated local
330 property taxes collected; (iv) that portion of the amount paid by the purchaser as a discretionary gratuity
331 added to the price of a meal; or (v) that portion of the amount paid by the purchaser as a mandatory
332 gratuity or service charge added by a restaurant to the price of a meal, but only to the extent that such
333 mandatory gratuity or service charge does not exceed ~~20%~~ *20 percent* of the price of the meal. Where
334 used articles are taken in trade, or in a series of trades as a credit or part payment on the sale of new or
335 used articles, the tax levied by this chapter shall be paid on the net difference between the sales price of
336 the new or used articles and the credit for the used articles.

337 "Semiconductor cleanrooms" means the integrated systems, fixtures, piping, partitions, flooring,
338 lighting, equipment, and all other property used to reduce contamination or to control airflow,
339 temperature, humidity, vibration, or other environmental conditions required for the integrated process of
340 semiconductor manufacturing.

341 "Semiconductor equipment" means (i) machinery or tools or repair parts or replacements thereof; (ii)
342 the related accessories, components, pedestals, bases, or foundations used in connection with the
343 operation of the equipment, without regard to the proximity to the equipment, the method of attachment,
344 or whether the equipment or accessories are affixed to the realty; (iii) semiconductor wafers and other
345 property or supplies used to install, test, calibrate or recalibrate, characterize, condition, measure, or
346 maintain the equipment and settings thereof; and (iv) equipment and supplies used for quality control
347 testing of product, materials, equipment, or processes; or the measurement of equipment performance or
348 production parameters regardless of where or when the quality control, testing, or measuring activity
349 takes place, how the activity affects the operation of equipment, or whether the equipment and supplies
350 come into contact with the product.

351 "Storage" means any keeping or retention of tangible personal property for use, consumption or
352 distribution in the Commonwealth, or for any purpose other than sale at retail in the regular course of
353 business.

354 "Tangible personal property" means personal property which may be seen, weighed, measured, felt,
355 or touched, or is in any other manner perceptible to the senses. The term "tangible personal property"
356 shall not include stocks, bonds, notes, insurance or other obligations or securities. The term "tangible
357 personal property" shall include (i) telephone calling cards upon their initial sale, which shall be exempt
358 from all other state and local utility taxes, and (ii) manufactured signs.

359 "Use" means the exercise of any right or power over tangible personal property incident to the
360 ownership thereof, except that it does not include the sale at retail of that property in the regular course
361 of business. The term does not include the exercise of any right or power, including use, distribution, or
362 storage, over any tangible personal property sold to a nonresident donor for delivery outside of the
363 Commonwealth to a nonresident recipient pursuant to an order placed by the donor from outside the
364 Commonwealth via mail or telephone. The term does not include any sale determined to be a gift
365 transaction, subject to tax under § 58.1-604.6.

366 "Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as herein

defined.

"Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers to those activities which are an integral part of the production of a product, including all steps of an integrated manufacturing or mining process, but not including ancillary activities such as general maintenance or administration. When used in relation to mining, it shall refer to the activities specified above, and in addition, any reclamation activity of the land previously mined by the mining company required by state or federal law.

"Video programmer" means a person or entity that provides video programming to end-user subscribers.

"Video programming" means video and/or information programming provided by or generally considered comparable to programming provided by a cable operator including, but not limited to, Internet service.

§ 58.1-604.7. One-half percent sales and use tax in certain planning districts.

A. In addition to the sales tax imposed pursuant to § 58.1-603, a tax of one-half of one percent is hereby levied and imposed on the property, activities, and services described in § 58.1-603 in the localities located within a planning district that has met the requirements of § 15.2-4217.2, and that have been specifically authorized by the General Assembly to have the revenues generated by such tax collected and deposited into the transportation fund established by the planning district commission pursuant to § 15.2-4217.2. Such tax shall not be levied upon food purchased for human consumption pursuant to § 58.1-611.1.

B. In addition to the use tax imposed pursuant to § 58.1-604, a tax of one-half of one percent is hereby levied and imposed on the property, activities, and services described in § 58.1-604 in the localities located within a planning district that has met the requirements of § 15.2-4217.2, and that have been specifically authorized by the General Assembly to have the revenues generated by such tax collected and deposited into the transportation fund established by the planning district commission pursuant to § 15.2-4217.2. Such tax shall not be levied upon food purchased for human consumption pursuant to § 58.1-611.1.

C. The taxes under this section shall be effective in the localities located in the planning district for the tax year beginning on January 1 immediately following the session of the General Assembly in which approval was explicitly provided for the collection of the tax for the planning district. No tax shall be imposed or collected pursuant to this section unless, during the same session, the General Assembly also authorizes the collection of the tax set forth in Chapter 8.1 (§ 58.1-818) in the localities located within the planning district.

D. The taxes under this section 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 on any tax provided under this section.

E. Notwithstanding the provisions of § 58.1-638, all taxes paid to the Commissioner pursuant to this section, less the applicable portion of any refunds to the taxpayers, shall be deposited in the special fund titled the "Transportation Fund of the [fill in the name] Planning District Commission." The moneys deposited in the special fund shall be distributed monthly to the applicable planning district commission to be used in accordance with the provisions of § 15.2-4217.2. No expenditures from or other use of moneys in the special fund shall be considered in allocating highway maintenance and construction funds under § 33.1-23.1 or apportioning Transportation Trust Fund funds under § 58.1-638, but shall be in addition thereto.

§ 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, ~~nor shall it include~~ (ii) the one percent of the state sales and use tax revenue distributed among the counties and cities of the Commonwealth pursuant to subsection D of § 58.1-638 on the basis of school age population, *or (iii) the one-half percent sales and use tax generated pursuant to § 58.1-604.7.* For a public facility that is a sports facility, "sales tax revenues" shall include such revenues generated by transactions taking place upon the premises of a baseball stadium or structures attached thereto.

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

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

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

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

ARTICLE 8.1.

ADDITIONAL RECORDATION TAX.

§ 58.1-818. *Additional recordation tax.*

A. *In addition to the state recordation tax imposed by Chapter 8 (§ 58.1-800 et seq.), there is hereby imposed an additional recordation tax, at a rate of 15 cents (\$0.15) on every \$100 or fraction thereof, upon the first recordation of each taxable instrument in the localities located within a planning district that has met the requirements of § 15.2-4217.2, and that have been specifically authorized by the General Assembly to have the revenues generated by such tax collected and deposited into the transportation fund established by the planning district commission pursuant to § 15.2-4217.2.*

B. *The taxes under this section shall be effective in the localities located in the planning district for the tax year beginning on January 1 immediately following the session of the General Assembly in which approval was explicitly provided for the collection of the tax for the planning district. No tax shall be imposed or collected pursuant to this section unless, during the same session, the General Assembly also authorizes the collection of the tax set forth in § 58.1-604.7 in the localities located within the planning district.*

C. *All taxes paid to the Commissioner pursuant to this section shall be deposited in the special fund titled the "Transportation Fund of the [fill in the name] Planning District Commission." The moneys deposited in the special fund shall be distributed monthly to the applicable planning district commission to be used in accordance with § 15.2-4217.2. No expenditures from or other uses of the moneys in the special fund shall be considered in allocating highway maintenance and construction funds under § 33.1-23.1 or apportioning Transportation Trust Fund funds under § 58.1-638, but shall be in addition thereto.*

D. *Except as otherwise provided in this section, the provisions of Chapter 8 (§ 58.1-800 et seq.) shall apply to this chapter, mutatis mutandis.*

§ 58.1-2201. *Definitions.*

As used in this chapter, unless the context requires otherwise:

"Alternative fuel" means a combustible gas, liquid or other energy source that can be used to generate power to operate a highway vehicle and that is neither a motor fuel nor electricity used to recharge an electric motor vehicle.

"Assessment" means a written determination by the Department of the amount of taxes owed by a taxpayer. Assessments made by the Department shall be deemed to be made when a written notice of assessment is delivered to the taxpayer by the Department or is mailed to the taxpayer at the last known address appearing in the Commissioner's files.

"Aviation consumer" means any person who uses in excess of 100,000 gallons of aviation jet fuel in any fiscal year and is licensed pursuant to Article 2 (§ 58.1-2204 et seq.) of this chapter.

"Aviation fuel" means aviation gasoline or aviation jet fuel.

"Aviation gasoline" means fuel designed for use in the operation of aircraft other than jet aircraft, and sold or used for that purpose.

"Aviation jet fuel" means fuel designed for use in the operation of jet or turbo-prop aircraft, and sold or used for that purpose.

551 "Blended fuel" means a mixture composed of gasoline or diesel fuel and another liquid, other than a
552 de minimis amount of a product such as carburetor detergent or oxidation inhibitor, that can be used as
553 a fuel in a highway vehicle.

554 "Blender" means a person who produces blended fuel outside the terminal transfer system.

555 "Bonded aviation jet fuel" means aviation jet fuel held in bonded storage under United States
556 Customs Law and delivered into a fuel tank of aircraft operated by certificated air carriers on
557 international flights.

558 "Bonded importer" means a person, other than a supplier, who imports, by transport truck or another
559 means of transfer outside the terminal transfer system, motor fuel removed from a terminal located in
560 another state in which (i) the state from which the fuel is imported does not require the seller of the fuel
561 to collect motor fuel tax on the removal either at that state's rate or the rate of the destination state; (ii)
562 the supplier of the fuel is not an elective supplier; or (iii) the supplier of the fuel is not a permissive
563 supplier.

564 "Bulk plant" means a motor fuel storage and distribution facility that is not a terminal and from
565 which motor fuel may be removed at a rack.

566 "Bulk user" means a person who maintains storage facilities for motor fuel and uses part or all of the
567 stored fuel to operate a highway vehicle, watercraft, or aircraft.

568 "Bulk user of alternative fuel" means a person who maintains storage facilities for alternative fuel
569 and uses part or all of the stored fuel to operate a highway vehicle.

570 "Commercial watercraft" means a watercraft employed in the business of commercial fishing,
571 transporting persons or property for compensation or hire, or any other trade or business unless the
572 watercraft is used in an activity of a type generally considered entertainment, amusement, or recreation.
573 The definition shall include a watercraft owned by a private business and used in the conduct of its own
574 business or operations, including but not limited to the transport of persons or property.

575 "Commissioner" means the Commissioner of the Department of Motor Vehicles.

576 "Corporate or partnership officer" means an officer or director of a corporation, partner of a
577 partnership, or member of a limited liability company, who as such officer, director, partner or member
578 is under a duty to perform on behalf of the corporation, partnership, or limited liability company the tax
579 collection, accounting, or remitting obligations.

580 "Department" means the Department of Motor Vehicles, acting directly or through its duly authorized
581 officers and agents.

582 "Designated inspection site" means any state highway inspection station, weigh station, agricultural
583 inspection station, mobile station, or other location designated by the Commissioner or his designee to
584 be used as a fuel inspection site.

585 "Destination state" means the state, territory, or foreign country to which motor fuel is directed for
586 delivery into a storage facility, a receptacle, a container, or a type of transportation equipment for the
587 purpose of resale or use. The term shall not include a tribal reservation of any recognized Native
588 American tribe.

589 "Diesel fuel" means any liquid that is suitable for use as a fuel in a diesel-powered highway vehicle
590 or watercraft. The term shall include undyed #1 fuel oil and undyed #2 fuel oil, but shall not include
591 gasoline or aviation jet fuel.

592 "Distributor" means a person who acquires motor fuel from a supplier or from another distributor for
593 subsequent sale.

594 "Dyed diesel fuel" means diesel fuel that meets the dyeing and marking requirements of 26 U.S.C.
595 § 4082.

596 "Elective supplier" means a supplier who (i) is required to be licensed in the Commonwealth and (ii)
597 elects to collect the tax due the Commonwealth on motor fuel that is removed at a terminal located in
598 another state and has Virginia as its destination state.

599 "Electric motor vehicle" means a motor vehicle that uses electricity as its only source of motive
600 power.

601 "End seller" means the person who sells fuel to the ultimate user of the fuel.

602 "Export" means to obtain motor fuel in Virginia for sale or distribution in another state, territory, or
603 foreign country. Motor fuel delivered out-of-state by or for the seller constitutes an export by the seller,
604 and motor fuel delivered out-of-state by or for the purchaser constitutes an export by the purchaser.

605 "Exporter" means a person who obtains motor fuel in Virginia for sale or distribution in another
606 state, territory, or foreign country.

607 "Fuel" includes motor fuel and alternative fuel.

608 "Fuel alcohol" means methanol or fuel grade ethanol.

609 "Fuel alcohol provider" means a person who (i) produces fuel alcohol or (ii) imports fuel alcohol
610 outside the terminal transfer system by means of a marine vessel, a transport truck, a tank wagon, or a
611 railroad tank car.

612 "Gasohol" means a blended fuel composed of gasoline and fuel grade ethanol.

"Gasoline" means (i) all products that are commonly or commercially known or sold as gasoline and are suitable for use as a fuel in a highway vehicle, aircraft, or watercraft, other than products that have an American Society for Testing Materials octane number of less than 75 as determined by the motor method; (ii) a petroleum product component of gasoline, such as naphtha, reformate, or toluene; (iii) gasohol; and (iv) fuel grade ethanol. The term does not include aviation gasoline sold for use in an aircraft engine.

"Governmental entity" means (i) the Commonwealth or any political subdivision thereof or (ii) the United States or its departments, agencies, and instrumentalities.

"Gross gallons" means an amount of motor fuel measured in gallons, exclusive of any temperature, pressure, or other adjustments.

"Heating oil" means any combustible liquid, including but not limited to dyed #1 fuel oil, dyed #2 fuel oil, and kerosene, that is burned in a boiler, furnace, or stove for heating or for industrial processing purposes.

"Highway" means every way or place of whatever nature open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys in towns and cities.

"Highway vehicle" means a self-propelled vehicle designed for use on a highway.

"Hybrid electric motor vehicle" means a motor vehicle that uses electricity and another source of motive power.

"Import" means to bring motor fuel into Virginia by any means of conveyance other than in the fuel supply tank of a highway vehicle. Motor fuel delivered into Virginia from out-of-state by or for the seller constitutes an import by the seller, and motor fuel delivered into Virginia from out-of-state by or for the purchaser constitutes an import by the purchaser.

"Importer" means a person who obtains motor fuel outside of Virginia and brings that motor fuel into Virginia by any means of conveyance other than in the fuel tank of a highway vehicle. For purposes of this chapter, a motor fuel transporter shall not be considered an importer.

"In-state-only supplier" means (i) a supplier who is required to have a license and who elects not to collect the tax due the Commonwealth on motor fuel that is removed by that supplier at a terminal located in another state and has Virginia as its destination state or (ii) a supplier who does business only in Virginia.

"Licensee" means any person licensed by the Commissioner pursuant to Article 2 (§ 58.1-2204 et seq.) of this chapter or § 58.1-2244.

"Liquid" means any substance that is liquid above its freezing point.

"Motor fuel" means gasoline, diesel fuel, blended fuel, and aviation fuel.

"Motor fuel transporter" means a person who transports motor fuel for hire by means of a pipeline, a tank wagon, a transport truck, a railroad tank car, or a marine vessel.

"Net gallons" means the amount of motor fuel measured in gallons when adjusted to a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch.

"Occasional importer" means any person who (i) imports motor fuel by any means outside the terminal transfer system and (ii) is not required to be licensed as a bonded importer.

"Permissive supplier" means an out-of-state supplier who elects, but is not required, to have a supplier's license under this chapter.

"Person" means any individual; firm; cooperative; association; corporation; limited liability company; trust; business trust; syndicate; partnership; limited liability partnership; joint venture; receiver; trustee in bankruptcy; club, society or other group or combination acting as a unit; or public body, including but not limited to the Commonwealth, any other state, and any agency, department, institution, political subdivision or instrumentality of the Commonwealth or any other state.

"Position holder" means a person who holds an inventory position of motor fuel in a terminal, as reflected on the records of the terminal operator. A person holds an "inventory position of motor fuel" when he has a contract with the terminal operator for the use of storage facilities and terminaling services for fuel at the terminal. The term includes a terminal operator who owns fuel in the terminal.

"Principal" means (i) if a partnership, all its partners; (ii) if a corporation, all its officers, directors, and controlling direct or indirect owners; (iii) if a limited liability company, all its members; and (iv) or an individual.

"Provider of alternative fuel" means a person who (i) acquires alternative fuel for sale or delivery to a bulk user or a retailer; (ii) maintains storage facilities for alternative fuel, part or all of which the person sells to someone other than a bulk user or a retailer to operate a highway vehicle; (iii) sells alternative fuel and uses part of the fuel acquired for sale to operate a highway vehicle by means of a fuel supply line from the cargo tank of the vehicle to the engine of the vehicle; or (iv) imports alternative fuel into Virginia, by a means other than the usual tank or receptacle connected with the engine of a highway vehicle, for sale or use by that person to operate a highway vehicle.

"Rack" means a facility that contains a mechanism for delivering motor fuel from a refinery,

terminal, or bulk plant into a transport truck, railroad tank car, or other means of transfer that is outside the terminal transfer system.

"Refiner" means any person who owns, operates, or otherwise controls a refinery.

"Refinery" means a facility for the manufacture or reprocessing of finished or unfinished petroleum products usable as motor fuel and from which motor fuel may be removed by pipeline or marine vessel or at a rack.

"Removal" means a physical transfer other than by evaporation, loss, or destruction. A physical transfer to a transport truck or other means of conveyance outside the terminal transfer system is complete upon delivery into the means of conveyance.

"Retailer" means a person who (i) maintains storage facilities for motor fuel and (ii) sells the fuel at retail or dispenses the fuel at a retail location.

"Retailer of alternative fuel" means a person who (i) maintains storage facilities for alternative fuel and (ii) sells or dispenses the fuel at retail, to be used to generate power to operate a highway vehicle.

"Supplier" means (i) a position holder, or (ii) a person who receives motor fuel pursuant to a two-party exchange. A licensed supplier includes a licensed elective supplier and licensed permissive supplier.

"System transfer" means a transfer (i) of motor fuel within the terminal transfer system or (ii) of fuel grade ethanol by transport truck or railroad tank car.

"Tank wagon" means a straight truck or straight truck/trailer combination designed or used to carry fuel and having a capacity of less than 6,000 gallons.

"Terminal" means a motor fuel storage and distribution facility (i) to which a terminal control number has been assigned by the Internal Revenue Service, (ii) to which motor fuel is supplied by pipeline or marine vessel, and (iii) from which motor fuel may be removed at a rack.

"Terminal operator" means a person who owns, operates, or otherwise controls a terminal.

"Terminal transfer system" means a motor fuel distribution system consisting of refineries, pipelines, marine vessels, and terminals, and which is a "bulk transfer/terminal system" under 26 C.F.R. Part 48.4081-1.

"Transmix" means (i) the buffer or interface between two different products in a pipeline shipment or (ii) a mix of two different products within a refinery or terminal that results in an off-grade mixture.

"Transport truck" means a tractor truck/semitrailer combination designed or used to transport cargoes of motor fuel over a highway.

"Trustee" means a person who (i) is licensed as a supplier, an elective supplier, or a permissive supplier and receives tax payments from and on behalf of a licensed or unlicensed distributor, or other person pursuant to § 58.1-2231 or (ii) is licensed as a provider of alternative fuel and receives tax payments from and on behalf of a bulk user of alternative fuel, retailer of alternative fuel or other person pursuant to § 58.1-2252.

"Two-party exchange" means a transaction in which fuel is transferred from one licensed supplier to another licensed supplier pursuant to an exchange agreement, which transaction (i) includes a transfer from the person who holds the inventory position in taxable motor fuel in the terminal as reflected on the records of the terminal operator and (ii) is completed prior to removal of the product from the terminal by the receiving exchange partner.

"Undyed diesel fuel" means diesel fuel that is not subject to the United States Environmental Protection Agency or Internal Revenue Service fuel-dyeing requirements.

"Use" means the actual consumption or receipt of motor fuel by any person into a highway vehicle, aircraft, or watercraft.

"Watercraft" means any vehicle used on waterways.

§ 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 (\$0.175) per gallon on 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 (\$0.175) per gallon on 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 cents (\$0.16) per gallon on 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 sixteen cents (\$0.16) per gallon on all other alternative fuel used to operate a highway vehicle. The Commissioner shall determine the equivalent rate applicable to such other alternative fuels.

B. In addition to any tax imposed by this article, there is hereby levied an annual license tax of \$50 \$102 per vehicle on each highway vehicle registered in Virginia that is an electric motor vehicle or a hybrid electric motor vehicle. If such a highway vehicle is registered for a period other than one year as

provided under § 46.2-646, the license tax shall be multiplied by the number of years or fraction thereof that the vehicle will be registered.

§ 58.1-2259.1. Refund for hybrid electric motor vehicles.

A refund of the tax paid pursuant to § 58.1-2288.1 for the purchase of fuel shall be granted in accordance with the provisions of § 58.1-2261 to any person who establishes to the satisfaction of the Commissioner that such person has paid the tax levied pursuant to § 58.1-2288.1 upon any fuel used to fuel a hybrid electric motor vehicle for which a current annual license tax has been paid pursuant to subsection B of § 58.1-2249.

§ 58.1-2261. Refund procedure; investigations.

A. Any person entitled to a refund pursuant to § 58.1-2259 or 58.1-2259.1 shall file with the Commissioner an application on a form prepared and furnished by the Commissioner. Such application shall contain the information and certifications required by the Commissioner. The applicant shall set forth the basis for the claimed refund, the total amount of such fuel purchased and used by such applicant, and how such fuel was used. The applicant shall retain the paid ticket, invoice, or other document from the seller documenting the purchase of the fuel on which a refund is claimed for a period of time to be determined by the Commissioner. For a refund pursuant to § 58.1-2259.1, the applicant shall also present a copy of a current Virginia vehicle registration for a hybrid electric motor vehicle for which the annual license has been paid. The Commissioner, upon the presentation of such application shall refund to the claimant the proper amount of the tax paid as provided in this chapter, subject to the provisions of subsection D. A ticket issued to the holder of a credit card as evidence of the delivery to such holder of tax-paid fuel shall, for the purpose of this section, be a paid ticket or invoice. Tickets or invoices marked "duplicate" shall not be acceptable.

B. The application for a refund shall be filed within one year from the date of the sale as shown on the paid ticket or invoice. For those that pay the motor fuels tax in accordance with § 58.1-2200, if the refund amount certified by the Commissioner is different from the amount requested by the applicant, the Commissioner shall provide an explanation to the applicant of why the refund amount differs from the amount requested.

C. In the event an assessment is rendered for failure to report and pay the tax imposed as provided in § 58.1-2217 or § 58.1-2249 and such fuel is subject to refund under the provisions of § 58.1-2259 or 58.1-2259.1, the application for a refund shall be filed with the Commissioner by the person entitled to such refund within one year from the date such assessment is paid and shall be accompanied by invoices covering the sale of the fuel and billing of tax to such person.

D. The Department may make any investigation it considers necessary before refunding the fuels tax to a person, and may investigate a refund after the refund has been issued and within the time frame for adjusting tax under this chapter. As a part of such investigation, the Department may require that the person provide the paid ticket, invoice, or other document from the seller documenting the purchase of the fuel on which a refund is claimed. Failure to provide a ticket, invoice, or other document evidencing the purchase of such fuel on which a refund is requested or was previously granted will result in the denial or reversal of that refund.

E. In accordance with § 58.1-609.1, any person who is refunded tax pursuant to § 58.1-2259 or 58.1-2259.1 shall be subject to the taxes imposed by Chapter 6 (§ 58.1-600 et seq.) of this title, unless such transaction is specifically exempted pursuant to § 58.1-609.1.

Article 8.1.

Additional Taxes.

§ 58.1-2288.1. Additional taxes on fuels.

A. Beginning July 1, 2013, and thereafter, any licensee or person required to precollect the tax imposed on fuels under § 58.1-2217 or 58.1-2249 shall also be required to precollect an additional tax, which is hereby imposed at the rate established in subsection B, on the number of gallons of gasoline, gasohol, diesel fuel, blended fuel, or alternative fuel for which the licensee or person is precollecting the tax under such section or sections. The tax imposed under this section shall be in addition to all other taxes and fees of every kind now imposed by law.

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

In computing the cents-per-gallon tax, the Commissioner shall use four base periods. The period from March 1 through May 31 shall be the base period for the purpose of determining the cents-per-gallon tax for the immediately following period beginning July 1 and ending September 30, inclusive. The period from June 1 through August 31 shall be the base period for determining the cents-per-gallon tax for the immediately following period beginning October 1 and ending December 31,

797 *inclusive. The period from September 1 through November 30 shall be the base period for determining*
798 *the cents-per-gallon tax for the immediately following period beginning January 1 and ending March*
799 *31, inclusive. The period from December 1 through the last day of February shall be the base period*
800 *for determining the cents-per-gallon tax for the immediately following period beginning April 1 and*
801 *ending June 30, inclusive.*

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

807 *D. The tax imposed by subsection A shall be due and paid by such licensee or person at the same*
808 *time that the tax under § 58.1-2217 or 58.1-2249, as applicable, is due. All provisions of this chapter,*
809 *including return filing and reporting requirements, payment requirements and due dates for payment of*
810 *tax, requirements to precollect tax, late payment penalties and interest, jeopardy assessments, civil*
811 *penalties, discounts, deductions, and exemptions from tax, shall apply mutatis mutandis to the additional*
812 *tax imposed under this section.*

813 **§ 58.1-2289. (Contingent expiration date) Disposition of tax revenue generally.**

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

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

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

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

841 *C. One-half cent (\$0.005) of the tax collected on each gallon of fuel on which a refund has been*
842 *paid for gasoline, gasohol, diesel fuel, blended fuel, or alternative fuel, for fuel consumed in tractors and*
843 *unlicensed equipment used for agricultural purposes shall be paid into a special fund of the state*
844 *treasury, known as the Virginia Agricultural Foundation Fund, to be disbursed to make certain refunds*
845 *and defray the costs of the research and educational phases of the agricultural program, including*
846 *supplemental salary payments to certain employees at Virginia Polytechnic Institute and State University,*
847 *the Department of Agriculture and Consumer Services and the Virginia Truck and Ornamentals Research*
848 *Station, including reasonable expenses of the Virginia Agricultural Council.*

849 *D. One and one-half cents (\$0.015) of the tax collected on each gallon of fuel used to propel a*
850 *commercial watercraft upon which a refund has been paid shall be paid to the credit of the Game*
851 *Protection Fund of the state treasury to be made available to the Board of Game and Inland Fisheries*
852 *until expended for the purposes provided generally in subsection C of § 29.1-701, including acquisition,*
853 *construction, improvement and maintenance of public boating access areas on the public waters of this*
854 *Commonwealth and for other activities and purposes of direct benefit and interest to the boating public*
855 *and for no other purpose. However, one and one-half cents (\$0.015) per gallon on fuel used by*
856 *commercial fishing, oystering, clamming, and crabbing boats shall be paid to the Department of*
857 *Transportation to be used for the construction, repair, improvement and maintenance of the public docks*
858 *of this 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 *and after deduction for the revenues distributed pursuant to subsection G*, 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.

F. The additional revenues, less any additional refunds authorized, generated by increases in the rates of taxes under this chapter pursuant to enactments of the 2007 Session of the General Assembly shall be collected pursuant to Article 4 (§ 58.1-2230 *et seq.*) ~~of this chapter~~ and deposited into the Highway Maintenance and Operating Fund.

G. 1. The additional revenues (less any additional refunds authorized and the direct costs of administration by the Department in collecting such additional revenues) generated by the additional tax under § 58.1-2288.1 shall be collected pursuant to Article 4 (§ 58.1-2230 et seq.) and distributed as follows:

a. An amount equal to a three percent tax imposed pursuant to § 58.1-2288.1 shall be deposited in the Highway Maintenance and Operating Fund;

b. An amount equal to a one percent tax imposed pursuant to § 58.1-2288.1 shall be deposited in the Transportation Trust Fund established pursuant to § 33.1-23.03:1;

c. An amount equal to a 0.34 percent tax imposed pursuant to § 58.1-2288.1 shall be deposited in the Intercity Passenger and Rail Operating and Capital Fund established pursuant to § 33.1-221.1:1.3; and

d. An amount equal to a 0.66 percent tax imposed pursuant to § 58.1-2288.1 shall be distributed to counties and cities in the Commonwealth. A county or city receiving funds pursuant to this subdivision may expend the funds for any transportation purpose in the locality, but shall not use the funds for any other purpose. Funds shall be credited to the account of each particular county or city based on the same proportions and formulas used to distribute local sales tax pursuant to § 58.1-605.

2. For purposes of such deposits pursuant to this subsection, the Commissioner shall provide a monthly certification to the Comptroller reporting the net revenues generated by such tax in the most recently ended month for which such net revenues have been collected. The monthly certification shall be provided to the Comptroller no later than the twenty-fifth of each month. The Comptroller shall deposit an amount equal to each month's net revenues (as reported in the Commissioner's certification) into the funds specified herein no later than the last day of the same month in which the certification was made by the Commissioner.

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

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

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

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

923 B. ~~The~~ *Except as provided in subsection F, the* tax collected on each gallon of aviation fuel sold and
924 delivered or used in this Commonwealth, less refunds, shall be paid into a special fund of the state
925 treasury. Proceeds of this special fund within the Commonwealth Transportation Fund shall be disbursed
926 upon order of the Department of Aviation, on warrants of the Comptroller, to defray the cost of the
927 administration of the laws of this Commonwealth relating to aviation, for the construction, maintenance
928 and improvement of airports and landing fields to which the public now has or which it is proposed
929 shall have access, and for the promotion of aviation in the interest of operators and the public generally.

930 C. One-half cent (*\$0.005*) of the tax collected on each gallon of fuel on which the refund has been
931 paid at the rate of seventeen cents (*\$0.17*) per gallon, or in the case of diesel fuel, fifteen and one-half
932 cents (*\$0.155*) per gallon, for fuel consumed in tractors and unlicensed equipment used for agricultural
933 purposes shall be paid into a special fund of the state treasury, known as the Virginia Agricultural
934 Foundation Fund, to be disbursed to make certain refunds and defray the costs of the research and
935 educational phases of the agricultural program, including supplemental salary payments to certain
936 employees at Virginia Polytechnic Institute and State University, the Department of Agriculture and
937 Consumer Services and the Virginia Truck and Ornamentals Research Station, including reasonable
938 expenses of the Virginia Agricultural Council.

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

951 From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for
952 the propelling of watercraft, after deduction for lawful refunds *and after deduction for the revenues*
953 *distributed pursuant to subsection F*, there shall be paid into the state treasury for use by the Marine
954 Resources Commission, the Virginia Soil and Water Conservation Board, the State Water Control Board,
955 and the Commonwealth Transportation Board to (i) improve the public docks as specified in this section,
956 (ii) improve commercial and sports fisheries in Virginia's tidal waters, (iii) make environmental
957 improvements including, without limitation, fisheries management and habitat enhancement in the
958 Chesapeake and its tributaries, and (iv) further the purposes set forth in § 33.1-223, a sum as established
959 by the General Assembly.

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

966 F. *1. The additional revenues (less any additional refunds authorized and the direct costs of*
967 *administration by the Department in collecting such additional revenues) generated by the additional tax*
968 *under § 58.1-2288.1 shall be collected pursuant to Article 4 (§ 58.1-2230 et seq.) and distributed as*
969 *follows:*

970 a. *An amount equal to a three percent tax imposed pursuant to § 58.1-2288.1. shall be deposited in*
971 *the Highway Maintenance and Operating Fund;*

972 b. *An amount equal to a one percent tax imposed pursuant to § 58.1-2288.1 shall be deposited in the*
973 *Transportation Trust Fund established pursuant to § 33.1-23.03:1;*

974 c. *An amount equal to a 0.34 percent tax imposed pursuant to § 58.1-2288.1 shall be deposited in*
975 *the Intercity Passenger and Rail Operating and Capital Fund established pursuant to § 33.1-221.1:1.3;*
976 *and*

977 d. *An amount equal to a 0.66 percent tax imposed pursuant to § 58.1-2288.1 shall be distributed to*
978 *counties and cities in the Commonwealth. A county or city receiving funds pursuant to this subdivision*
979 *may expended the funds for any transportation purpose in the locality, but shall not use the funds for*
980 *any other purpose. Funds shall be credited to the account of each particular county or city based on the*
981 *same proportions and formulas used to distribute local sales tax pursuant to § 58.1-605.*

2. For purposes of such deposits pursuant to this subsection, the Commissioner shall provide a monthly certification to the Comptroller reporting the net revenues generated by such tax in the most recently ended month for which such net revenues have been collected. The monthly certification shall be provided to the Comptroller no later than the twenty-fifth of each month. The Comptroller shall deposit an amount equal to each month's net revenues (as reported in the Commissioner's certification) into the funds specified herein no later than the last day of the same month in which the certification was made by the Commissioner.

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

A. Except as provided in subsection B, every motor carrier shall pay a road tax equivalent to \$0.21 per gallon *plus the additional cents-per-gallon tax imposed pursuant to § 58.1-2288.1* calculated on the amount of motor fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of sixty 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. 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) Amount of tax.

A. Except as provided in subsection B, every motor carrier shall pay a road tax equivalent to nineteen and one-half cents per gallon *plus the additional cents-per-gallon tax imposed pursuant to § 58.1-2288.1* calculated on the amount of motor fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of sixty 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.

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 *plus the additional cents-per-gallon tax imposed pursuant to § 58.1-2288.1* on 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

1043 applicant. Otherwise, a formal hearing on the application shall be held by the Department after notice of
1044 not less than ten days to the applicant and the Attorney General.

1045 E. Whenever any refund is ordered it shall be paid out of the Highway Maintenance and
1046 Construction Fund.

1047 F. Whenever a person operating under lease to a motor carrier to perform transport services on
1048 behalf of the carrier purchases motor fuel, diesel fuel or liquefied gases relating to such services, such
1049 payments or purchases may, at the discretion of the Department, be considered payment or purchases by
1050 the carrier.

1051 2. That § 58.1-438.1 of the Code of Virginia is repealed for taxable years beginning on or after
1052 January 1, 2013. However, nothing in this enactment shall affect the validity of any credit earned
1053 pursuant to § 58.1-438.1 in a taxable year beginning before January 1, 2013, or the administration
1054 thereof.

1055 3. That any revenues distributed to a planning district commission from any of the revenues
1056 generated by § 58.1-604.7 or Chapter 8.1 (§ 58.1-818) of Title 58.1 of the Code of Virginia shall
1057 not be used to calculate or reduce the share of federal, state, or local revenues or funds otherwise
1058 available to the counties and cities located in the planning district, nor shall they be used to
1059 calculate or reduce any allocation of revenues or funds made pursuant to Title 33.1 of the Code of
1060 Virginia. Such share or allocation of revenues or funds that shall not be reduced includes, but is
1061 not limited to, state basic aid payments.

1062 4. That no county or city located in a planning district that is authorized to receive revenues
1063 pursuant to § 58.1-604.7 or Chapter 8.1 (§ 58.1-818) of Title 58.1 of the Code of Virginia may
1064 reduce its local appropriation for transportation purposes below what it appropriated for
1065 transportation purposes in the fiscal year immediately preceding the fiscal year during which the
1066 planning district commission in which it is located met the requirements of § 15.2-4217.2 of the
1067 Code of Virginia.

1068 5. That the provisions of this act that generate additional revenues for certain planning district
1069 commissions for transportation purposes shall expire on December 31 of any year in which the
1070 General Assembly appropriates any of the revenues designated for a planning district commission
1071 pursuant to § 58.1-604.7 or Chapter 8.1 (§ 58.1-518) of Title 58.1 of the Code of Virginia for any
1072 non-transportation-related purpose, or for use in any locality other than one located in the
1073 planning district commission in which the revenue was generated.

1074 6. That the Department of Taxation shall promulgate all necessary and reasonable regulations to
1075 govern the administration of the sales and use taxes and recordation taxes pursuant to the
1076 provisions of this act.

1077 7. That any planning district commission that receives revenues pursuant to this act shall report
1078 annually to the General Assembly on the allocation and expenditure of all moneys deposited in the
1079 the transportation fund established by such planning district commission pursuant to § 15.2-4217.2
1080 as created by this act.