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HOUSE BILL NO. 2253

Offered January 15, 2013

A *BILL to amend and reenact §§ 15.2-1104.1, 33.1-23.03:1, 58.1-3, 58.1-320, 58.1-416, 58.1-439, 58.1-540, 58.1-603, 58.1-604, 58.1-605, 58.1-606, 58.1-609.1, 58.1-609.10, 58.1-609.12, 58.1-623, 58.1-638, 58.1-811, 58.1-2201, 58.1-2249, 58.1-2261, 58.1-2289, as it is currently effective and as it may become effective, 58.1-3510.7, 58.1-3818, and 58.1-3833 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 46.2-755.3 and 58.1-802.2, by adding in Chapter 17 of Title 58.1 an article numbered 10, consisting of a section numbered 58.1-1742, 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 §§ 58.1-339.11 and 58.1-439.2, Article 20.1 (§§ 58.1-510 through 58.1-513) of Chapter 3 of Title 58.1, and §§ 58.1-608.1, 58.1-609.11, and 58.1-611.1 of the Code of Virginia, relating to establishing and adjusting sources of revenue for appropriations of the Commonwealth and its localities for transportation.*

Patron—Albo

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-1104.1, 33.1-23.03:1, 58.1-3, 58.1-320, 58.1-416, 58.1-439, 58.1-540, 58.1-603, 58.1-604, 58.1-605, 58.1-606, 58.1-609.1, 58.1-609.10, 58.1-609.12, 58.1-623, 58.1-638, 58.1-811, 58.1-2201, 58.1-2249, 58.1-2261, 58.1-2289, as it is currently effective and as it may become effective, 58.1-3510.7, 58.1-3818, and 58.1-3833 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 46.2-755.3 and 58.1-802.2, by adding in Chapter 17 of Title 58.1 an article numbered 10, consisting of a section numbered 58.1-1742, 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:

§ 15.2-1104.1. Tax on admissions to charitable events.

A municipal corporation that generally levies an admissions tax may, by ordinance, elect not to levy an admissions tax on admission to an event, provided that the purpose of the event is solely to raise money for charitable purposes and that the net proceeds derived from the event will be transferred to an entity or entities that are exempt from sales and use tax pursuant to § 58.1-609.11 from federal income taxation (i) under § 501(c)(3) of the Internal Revenue Code or (ii) under § 501(c)(4) of the Internal Revenue Code and, if it is exempt under § 501(c)(4) of the Internal Revenue Code, it is organized for a charitable purpose.

§ 33.1-23.03:1. Transportation Trust Fund.

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

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

2. [Repealed.]

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

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

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

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

7. All interest, dividends and appreciation which may accrue to the Transportation Trust Fund and the Highway Maintenance and Construction Fund, except that interest on funds becoming part of the

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59 Transportation Trust Fund under subdivision 1 and the Highway Maintenance and Construction Fund
60 shall not become part of the Transportation Trust Fund until July 1, 1988.

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

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

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

65 **§ 46.2-755.3. Additional initial license fees in certain localities.**

66 A. In addition to taxes and license fees imposed pursuant to § 46.2-752 and to all other taxes and
67 fees permitted by law, and subject to the limitations on license fees contained in this article, beginning
68 January 1, 2016, there is hereby imposed an additional initial, one-time license fee on all vehicles at the
69 rate of one percent of the retail value of the vehicle according to the National Automobile Dealers
70 Association at the time the vehicle is first registered by the owner in any locality that is imposing (i) the
71 tax pursuant to subdivision B 2 of § 58.1-3833 or (ii) the taxes pursuant to subsection K of § 58.1-605
72 and subsection H of § 58.1-606. If the model and year of an individual vehicle is not listed by the
73 National Automobile Dealers Association, the retail value of an individual vehicle may be determined on
74 the basis of the original cost, without any allowance or deduction for trade-ins, prior rental, or any
75 other transaction of like nature, or using such publications, sources, or information and other data as
76 are customarily employed in ascertaining the retail value of such vehicle. License fees under this section
77 shall be imposed only once, so long as the ownership of the vehicle upon which they are imposed
78 remains unchanged. Any vehicle whose owner has previously paid a fee under this section on the same
79 vehicle shall be exempt from the fee under this section.

80 B. All such additional license fees shall be paid to and collected by the Department of Motor
81 Vehicles and shall not be collectable or collected by any licensed dealer at the time of the sale of any
82 vehicle.

83 C. Any and all fees collected by the Department of Motor Vehicles under this section shall be
84 distributed to the county or city in which the vehicle is registered. The Commissioner shall maintain
85 records of the fee imposed and collected and the locality and address where each vehicle is registered.

86 D. The revenues generated by this subsection shall be used by the applicable locality solely for
87 construction of roads that will reduce traffic congestion on the highways of the Commonwealth. Prior to
88 construction, the locality shall submit the project to the Commonwealth Transportation Board for
89 approval. The Commonwealth Transportation Board's determination shall be based solely on a reduction
90 in traffic congestion analysis.

91 **§ 58.1-3. Secrecy of information; penalties.**

92 A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax
93 Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or
94 revenue officer or employee, or any person to whom tax information is divulged pursuant to former
95 § 58.1-512 or § 58.1-2712.2, or any former officer or employee of any of the aforementioned offices
96 shall not divulge any information acquired by him in the performance of his duties with respect to the
97 transactions, property, including personal property, income or business of any person, firm or
98 corporation. Such prohibition specifically includes any copy of a federal return or federal return
99 information required by Virginia law to be attached to or included in the Virginia return. This
100 prohibition shall apply to any reports, returns, financial documents or other information filed with the
101 Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2.
102 Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor. The
103 provisions of this subsection shall not be applicable, however, to:

104 1. Matters required by law to be entered on any public assessment roll or book;

105 2. Acts performed or words spoken or published in the line of duty under the law;

106 3. Inquiries and investigations to obtain information as to the process of real estate assessments by a
107 duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to
108 its study, provided that any such information obtained shall be privileged;

109 4. The sales price, date of construction, physical dimensions or characteristics of real property, or any
110 information required for building permits;

111 5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court
112 pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent;
113 or

114 6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when
115 requested by the General Assembly or any duly constituted committee of the General Assembly;

116 7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the
117 provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, when such reports or information
118 are provided by the Attorney General to a tobacco products manufacturer who is required to establish a
119 qualified escrow fund pursuant to § 3.2-4201 and are limited to the brand families of that manufacturer
120 as listed in the Tobacco Directory established pursuant to § 3.2-4206 and are limited to the current or

previous two calendar years or in any year in which the Attorney General receives Stamping Agent information that potentially alters the required escrow deposit of the manufacturer. The information shall only be provided in the following manner: the manufacturer may make a written request, on a quarterly or yearly basis or when the manufacturer is notified by the Attorney General of a potential change in the amount of a required escrow deposit, to the Attorney General for a list of the Stamping Agents who reported stamping or selling its products and the amount reported. The Attorney General shall provide the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of the reports the Stamping Agents filed with the Attorney General, it must first request them from the Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written request to the Attorney General, including a copy of the prior written request to the Stamping Agent and any response received, for copies of any reports not received. The Attorney General shall provide copies of the reports within 45 days of receipt of the request.

B. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to: (i) divulge tax information to any commissioner of the revenue, director of finance or other similar collector of county, city or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon written request, information on the amount of income, filing status, number and type of dependents, and whether a federal earned income tax credit has been claimed as reported by persons on their state income tax returns who have applied for public assistance or social services benefits as defined in § 63.2-100; (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Alcoholic Beverage Control Board, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the State Lottery Department such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners and holders of unclaimed property, as defined in § 55-210.2; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive Director of the Potomac and Rappahannock Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the Commissioner of the Department of Agriculture and Consumer Services such tax information as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing and Community Development for its confidential use such tax information as may be necessary to facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and address information to private collectors entering into a written agreement with the Tax Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax Commissioner is not authorized to provide such information to a private collector who has used or disseminated in an unauthorized or prohibited manner any such information

182 previously provided to such collector; (xiv) provide current name and address information as to the
183 identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any
184 person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for
185 injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or
186 Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering
187 into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid
188 wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource
189 Management, upon entering into a written agreement, such tax information as may be necessary to
190 identify persons receiving workers' compensation indemnity benefits who have failed to report earnings
191 as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or any
192 other officer of any county, city, or town performing any or all of the duties of a commissioner of the
193 revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list
194 of the names, business addresses, and dates of registration of all dealers registered for such tax; and
195 (xviii) provide to the Executive Director of the Northern Virginia Transportation Commission for his
196 confidential use such tax information as may be necessary to facilitate the collection of the motor
197 vehicle fuel sales tax. The Tax Commissioner is further authorized to enter into written agreements with
198 duly constituted tax officials of other states and of the United States for the inspection of tax returns, the
199 making of audits, and the exchange of information relating to any tax administered by the Department
200 of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to
201 the prohibitions and penalties prescribed herein as though he were a tax official.

202 D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the
203 commissioner of revenue or other assessing official is authorized to (i) provide, upon written request
204 stating the reason for such request, the chief executive officer of any county or city with information
205 furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of
206 any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the
207 local sales and use tax revenues payable to the county or city; (ii) provide to the Department of
208 Professional and Occupational Regulation for its confidential use the name, address, and amount of gross
209 receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a
210 profession or occupation administered by the Department of Professional and Occupational Regulation,
211 only after the Department of Professional and Occupational Regulation exhausts all other means of
212 obtaining such information; and (iii) provide to any representative of a condominium unit owners'
213 association, property owners' association or real estate cooperative association, or to the owner of
214 property governed by any such association, the names and addresses of parties having a security interest
215 in real property governed by any such association; however, such information shall be released only
216 upon written request stating the reason for such request, which reason shall be limited to proposing or
217 opposing changes to the governing documents of the association, and any information received by any
218 person under this subsection shall be used only for the reason stated in the written request. The treasurer
219 or other local assessing official may require any person requesting information pursuant to clause (iii) of
220 this subsection to pay the reasonable cost of providing such information. Any person to whom tax
221 information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties
222 prescribed herein as though he were a tax official.

223 Notwithstanding the provisions of subsection A or B or any other provisions of this title, the
224 treasurer or other collector of taxes for a county, city or town is authorized to provide information
225 relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course
226 of performing his duties to the commissioner of the revenue or other assessing official for such
227 jurisdiction for use by such commissioner or other official in performing assessments.

228 This section shall not be construed to prohibit a local tax official from imprinting or displaying on a
229 motor vehicle local license decal the year, make, and model and any other legal identification
230 information about the particular motor vehicle for which that local license decal is assigned.

231 E. Notwithstanding any other provisions of law, state agencies and any other administrative or
232 regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon
233 written request, the name, address, and social security number of a taxpayer, necessary for the
234 performance of the Commissioner's official duties regarding the administration and enforcement of laws
235 within the jurisdiction of the Department of Taxation. The receipt of information by the Tax
236 Commissioner or his agent which may be deemed taxpayer information shall not relieve the
237 Commissioner of the obligations under this section.

238 F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published
239 any confidential tax document which he knows or has reason to know is a confidential tax document. A
240 confidential tax document is any correspondence, document, or tax return that is prohibited from being
241 divulged by subsection A, B, C, or D and includes any document containing information on the
242 transactions, property, income, or business of any person, firm, or corporation that is required to be filed
243 with any state official by *former* § 58.1-512. This prohibition shall not apply if such confidential tax

document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection shall be guilty of a Class 2 misdemeanor.

§ 58.1-320. Imposition of tax.

A tax is hereby annually imposed on the Virginia taxable income for each taxable year of every individual as follows:

Two percent on income not exceeding \$3,000 *for taxable years beginning prior to January 1, 2016;*

One and eight-tenths percent (1.8 percent) on income not exceeding \$3,000 for taxable years beginning on and after January 1, 2016;

Three percent on income in excess of \$3,000; but not in excess of \$5,000 *for taxable years beginning prior to January 1, 2016;*

Two and eight-tenths percent (2.8 percent) on income in excess of \$3,000 but not in excess of \$5,000 for taxable years beginning on and after January 1, 2016;

Five percent on income in excess of \$5,000; but not in excess of \$12,000 for taxable years beginning before January 1, 1987;

Five percent on income in excess of \$5,000 but not in excess of \$14,000 for taxable years beginning January 1, 1987, through December 31, 1987;

Five percent on income in excess of \$5,000 but not in excess of \$15,000 for taxable years beginning January 1, 1988, through December 31, 1988;

Five percent on income in excess of \$5,000 but not in excess of \$16,000 for taxable years beginning January 1, 1989, through December 31, 1989;

Five percent on income in excess of \$5,000 but not in excess of \$17,000 for taxable years beginning *on and after January 1, 1990, but prior to January 1, 2016;*

Four and eight-tenths percent (4.8 percent) on income in excess of \$5,000 but not in excess of \$17,000 for taxable years beginning on and after January 1, 2016;

Five and three-quarters percent (5.75 percent) on income in excess of \$12,000 for taxable years beginning before January 1, 1987;

Five and three-quarters percent (5.75 percent) on income in excess of \$14,000 for taxable years beginning January 1, 1987, through December 31, 1987;

Five and three-quarters percent (5.75 percent) on income in excess of \$15,000 for taxable years beginning January 1, 1988, through December 31, 1988;

Five and three-quarters percent (5.75 percent) on income in excess of \$16,000 for taxable years beginning January 1, 1989, through December 31, 1989; ~~and~~

Five and three-quarters percent (5.75 percent) on income in excess of \$17,000 for taxable years beginning on and after January 1, 1990, *but prior to January 1, 2016; and*

Five and fifty-five hundredths percent (5.55 percent) on income in excess of \$17,000 for taxable years beginning on and after January 1, 2016.

§ 58.1-416. When certain other sales deemed in the Commonwealth.

Sales, other than sales of tangible personal property, are in the Commonwealth if:

~~1. The income-producing activity is performed in the Commonwealth; or~~

~~2. The income-producing activity is performed both in and outside the Commonwealth and a greater proportion of the income-producing activity is performed in the Commonwealth than in any other state, based on costs of performance the taxpayer has exploited the market provided by the Commonwealth to the extent that any benefit or use of such sale is to a person or location in the Commonwealth.~~

The Department shall develop and publish guidelines implementing the provisions of this section. The guidelines shall contain provisions that (i) assert to the maximum extent permitted by law Virginia's authority to calculate and impose its income tax with respect to the sale of services, the benefits of which are received in Virginia; the sale of marketable securities when the customer is in Virginia; and the sale, lease, rental, or licensing of real, personal, or intangible property when such property, other than property subject to § 58.1-415, is located in or used in Virginia; (ii) address the extent, if any, to which sourcing may be based upon estimates when necessary information is not in the possession of the taxpayer; and (iii) address the manner in which abuse of the sourcing rules may be remedied, which remedies may include reliance on the location of income-producing activity and direct costs of performance under the law and regulations as they existed for taxable years beginning prior to January 1, 2014. The development and publication of the guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

§ 58.1-439. Major business facility job tax credit.

A. For taxable years beginning on and after January 1, 1995, but before January 1, 2020, a taxpayer shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 as set forth in this section.

B. For purposes of this section, the amount of any credit attributable to a partnership, electing small

business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

C. A "major business facility" is a company that satisfies the following criteria:

1. Subject to the provisions of subsections K or L, the establishment or expansion of the company shall result in the creation of at least 50 jobs for qualified full-time employees; the first such 50 jobs shall be referred to as the "threshold amount"; and

2. The company is engaged in any business in the Commonwealth, except a retail trade business if such trade is the principal activity of an individual facility in the Commonwealth. Examples of types of major business facilities that are eligible for the credit provided under this section include, but are not limited to, a headquarters, or portion of such a facility, where company employees are physically employed, and where the majority of the company's financial, personnel, legal or planning functions are handled either on a regional or national basis. A company primarily engaged in the Commonwealth in the business of manufacturing or mining; agriculture, forestry or fishing; transportation or communications; or a public utility subject to the corporation income tax shall be deemed to have established or expanded a major business facility in the Commonwealth if it meets the requirements of subdivision 1 during a single taxable year and such facilities are not retail establishments. A major business facility shall also include facilities that perform central management or administrative activities, whether operated as a separate trade or business, or as a separate support operation of another business. Central management or administrative activities include, but are not limited to, general management; accounting; computing; tabulating; purchasing; transportation or shipping; engineering and systems planning; advertising; technical sales and support operations; central administrative offices and warehouses; research, development and testing laboratories; computer-programming, data-processing and other computer-related services facilities; and legal, financial, insurance, and real estate services. The terms used in this subdivision to refer to various types of businesses shall have the same meanings as those terms are commonly defined in the Standard Industrial Classification Manual.

D. For purposes of this section, the "credit year" is the first taxable year following the taxable year in which the major business facility commenced or expanded operations.

E. The Department of Taxation shall make all determinations as to the classification of a major business facility in accordance with the provisions of this section.

F. A "qualified full-time employee" means an employee filling a new, permanent full-time position in a major business facility in the Commonwealth. A "new, permanent full-time position" is a job of an indefinite duration, created by the company as a result of the establishment or expansion of a major business facility in the Commonwealth, requiring a minimum of 35 hours of an employee's time a week for the entire normal year of the company's operations, which "normal year" shall consist of at least 48 weeks, or a position of indefinite duration which requires a minimum of 35 hours of an employee's time a week for the portion of the taxable year in which the employee was initially hired for, or transferred to, the major business facility in the Commonwealth. Seasonal or temporary positions, or a job created when a job function is shifted from an existing location in the Commonwealth to the new major business facility and positions in building and grounds maintenance, security, and other such positions which are ancillary to the principal activities performed by the employees at a major business facility shall not qualify as new, permanent full-time positions.

G. For any major business facility, the amount of credit earned pursuant to this section shall be equal to \$1,000 per qualified full-time employee, over the threshold amount, employed during the credit year. The credit shall be allowed ratably, with one-third of the credit amount allowed annually for three years beginning with the credit year. However, for taxable years beginning January 1, 2009, through December 31, 2014, one-half of the credit amount shall be allowed each year for two years. The portion of the \$1,000 credit earned with respect to any qualified full-time employee who is employed in the Commonwealth for less than 12 full months during the credit year will be determined by multiplying the credit amount by a fraction, the numerator of which is the number of full months that the qualified full-time employee worked for the major business facility in the Commonwealth during the credit year, and the denominator of which is 12. A separate credit year and a three-year allowance period shall exist for each distinct major business facility of a single taxpayer, except for credits allowed for taxable years beginning January 1, 2009, through December 31, 2014, when a two-year allowance period shall exist for each distinct major business facility of a single taxpayer.

H. The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year. Any credit not usable for the taxable year the credit was allowed may be, to the extent usable, carried over for the next 10 succeeding taxable years. No credit shall be carried back to a preceding taxable year. In the event that a taxpayer who is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of the Code of Virginia, or has a credit carryover from a preceding taxable year, such taxpayer shall be considered to have first utilized any credit allowed which does not have a carryover provision, and then any credit

which is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.

I. No credit shall be earned pursuant to this section for any employee (i) for whom a credit under this section was previously earned by a related party as defined by Internal Revenue Code § 267(b) or a trade or business under common control as defined by Internal Revenue Code § 52(b); (ii) who was previously employed in the same job function in Virginia by a related party as defined by Internal Revenue Code § 267(b) or a trade or business under common control as defined by Internal Revenue Code § 52(b); (iii) whose job function was previously performed at a different location in Virginia by an employee of the taxpayer, a related party as defined by Internal Revenue Code § 267(b), or a trade or business under common control as defined by Internal Revenue Code § 52(b); or (iv) whose job function previously qualified for a credit under this section at a different major business facility on behalf of the taxpayer, a related party as defined by Internal Revenue Code § 267(b), or a trade or business under common control as defined by Internal Revenue Code § 52(b).

J. Subject to the provisions of subsections K or L, recapture of this credit, under the following circumstances, shall be accomplished by increasing the tax in any of the five years succeeding the taxable year in which a credit has been earned pursuant to this section if the number of qualified full-time employees decreases below the average number of qualified full-time employees employed during the credit year. Such tax increase amount shall be determined by (i) recomputing the credit which would have been earned for the original credit year using the decreased number of qualified full-time employees and (ii) subtracting such recomputed credit from the amount of credit previously earned. In the event that the average number of qualifying full-time employees employed at a major business facility falls below the threshold amount in any of the five taxable years succeeding the credit year, all credits earned with respect to such major business facility shall be recaptured. No credit amount will be recaptured more than once pursuant to this subsection. Any recapture pursuant to this section shall reduce credits earned but not yet allowed, and credits allowed but carried forward, before the taxpayer's tax liability may be increased.

K. In the event that a major business facility is located in an economically distressed area or in an enterprise zone as defined in Chapter 49 (§ 59.1-538 et seq.) of Title 59.1 during a credit year, the threshold amount required to qualify for a credit pursuant to this section and to avoid full recapture shall be reduced from 50 to 25 for purposes of subdivision C 1 and subsection J. An area shall qualify as economically distressed if it is a city or county with an unemployment rate for the preceding year of at least 0.5 percent higher than the average statewide unemployment rate for such year. The Virginia Economic Development Partnership shall identify and publish a list of all economically distressed areas at least annually.

L. For taxable years beginning on or after January 1, 2004, but before January 1, 2006, in the event that a major business facility is located in a severely economically distressed area, the threshold amount required to qualify for a credit pursuant to this section and to avoid full recapture shall be reduced from 100 to 25 for purposes of subdivision C 1 and subsection J. However, the total amount of credit allowable under this subsection shall not exceed \$100,000 in aggregate. An area shall qualify as severely economically distressed if it is a city or county with an unemployment rate for the preceding year of at least twice the average statewide unemployment rate for such year. The Virginia Economic Development Partnership shall identify and publish a list of all severely economically distressed areas at least annually.

M. The Tax Commissioner shall promulgate regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), relating to (i) the computation, carryover, and recapture of the credit provided under this section; (ii) defining criteria for (a) a major business facility, (b) qualifying full-time employees at such facility, and (c) economically distressed areas; and (iii) the computation, carryover, recapture, and redemption of the credit by affiliated companies pursuant to subsection S.

N. The provisions of this section shall apply only in instances where an announcement of intent to establish or expand a major business facility is made on or after January 1, 1994. An announcement of intent to establish or expand a major business facility includes, but is not limited to, a press conference or extensive press coverage, providing information with respect to the impact of the project on the economy of the area where the major business facility is to be established or expanded and the Commonwealth as a whole.

O. The credit allowed pursuant to this section shall be granted to the person who pays taxes for the qualified full-time employees pursuant to Chapter 5 (§ 60.2-500 et seq.) of Title 60.2.

~~P. No person shall claim a credit allowed pursuant to this section and the credit allowed pursuant to § 58.1-439.2.~~ Any qualified business firm receiving an enterprise zone job creation grant under § 59.1-547 shall not be eligible to receive a major business facility job tax credit pursuant to this section for any job used to qualify for the enterprise zone job creation grant.

Q. No person operating a business in the Commonwealth pursuant to Chapter 29 (§ 59.1-364 et seq.)

428 of Title 59.1 shall claim a credit pursuant to this section.

429 R. Notwithstanding subsection O, a taxpayer may, for the purpose of determining the number of
430 qualified full-time employees at a major business facility, include the employees of a contractor or a
431 subcontractor if such employees are permanently assigned to the taxpayer's major business facility. If the
432 taxpayer includes the employees of a contractor or subcontractor in its total of qualified full-time
433 employees, it shall enter into a contractual agreement with the contractor or subcontractor prohibiting the
434 contractor or subcontractor from also claiming these employees in order to receive a credit given under
435 this section. The taxpayer shall provide evidence satisfactory to the Department of Taxation that it has
436 entered into such a contract.

437 S. For purposes of satisfying the criteria of subdivision C 1, two or more affiliated companies may
438 elect to aggregate the number of jobs created for qualified full-time employees as the result of the
439 establishment or expansion by the individual companies in order to qualify for the credit allowed
440 pursuant to this section. For purposes of this subsection, "affiliated companies" means two or more
441 companies related to each other such that (i) one company owns at least 80 percent of the voting power
442 of the other or others or (ii) at least 80 percent of the voting power of two or more companies is owned
443 by the same interests.

444 T. The General Assembly of Virginia finds that modern business infrastructure allows businesses to
445 locate their administrative or manufacturing facilities with minimal regard to the location of markets or
446 the transportation of raw materials and finished goods, and that the economic vitality of the
447 Commonwealth would be enhanced if such facilities were established in Virginia. Accordingly, the
448 provisions of this section targeting the credit to major business facilities and limiting the credit to those
449 companies which establish a major business facility in Virginia are integral to the purpose of the credit
450 earned pursuant to this section and shall not be deemed severable.

451 **§ 58.1-540. Levy of the tax.**

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

459 B. The authority to levy a local income tax as provided in subsection A may be exercised by a
460 county or city governing body only if (i) *the county or city is not imposing any of the taxes and fees*
461 *authorized pursuant to subsection K of § 58.1-605, subsection H of § 58.1-606, or subdivision B 2 of*
462 *§ 58.1-3833 and (ii) approved in a referendum within the county or city. The referendum shall be held*
463 *in accordance with § 24.2-684. The referendum may be initiated either by a resolution of the governing*
464 *body of the county or city or on the filing of a petition signed by a number of registered voters of the*
465 *county or city equal in number to ten percent of the number of voters registered in the county or city on*
466 *January 1 of the year in which the petition is filed with the circuit court of such county or city. The*
467 *clerk of the circuit court shall publish notice of the election in a newspaper of general circulation in the*
468 *county or city once a week for three consecutive weeks prior to the election. The ballot used shall be*
469 *printed to read as follows:*

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

473 ☐ Yes

474 ☐ No"

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

482 **§ 58.1-603. Imposition of sales tax.**

483 A. There is hereby levied and imposed, in addition to all other taxes and fees of every kind now
484 imposed by law, a license or privilege tax upon every person who engages in the business of selling at
485 retail or distributing tangible personal property in this Commonwealth, or who rents or furnishes any of
486 the things or services taxable under this chapter, or who stores for use or consumption in this
487 Commonwealth any item or article of tangible personal property as defined in this chapter, or who
488 leases or rents such property within this Commonwealth, in the amount of three and one-half percent
489 through midnight on July 31, 2004, and four percent beginning on and after August 1, 2004:

1. Of the gross sales price of each item or article of tangible personal property when sold at retail or distributed in this Commonwealth.

2. Of the gross proceeds derived from the lease or rental of tangible personal property, where the lease or rental of such property is an established business, or part of an established business, or the same is incidental or germane to such business.

3. Of the cost price of each item or article of tangible personal property stored in this Commonwealth for use or consumption in this Commonwealth.

4. Of the gross proceeds derived from the sale or charges for rooms, lodgings or accommodations furnished to transients as set out in the definition of "retail sale" in § 58.1-602.

5. Of the gross sales of any services which are expressly stated as taxable within this chapter.

B. 1. In addition to the tax imposed pursuant to subsection A, there is hereby levied and imposed, in addition to all other taxes and fees of every kind now imposed by law, a license or privilege tax upon every person who engages in the business of selling at retail or distributing tangible personal property in the Counties of Isle of Wight, James City, and York and the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg, or who rents or furnishes any of the things or services taxable under this chapter in such localities, or who stores for use or consumption in such localities any item or article of tangible personal property as defined in this chapter, or who leases or rents such property within such localities, in the amount of one percent:

a. Of the gross sales price of each item or article of tangible personal property when sold at retail or distributed in such localities;

b. Of the gross proceeds derived from the lease or rental of tangible personal property in such localities, where the lease or rental of such property is an established business, or part of an established business, or the same is incidental or germane to such business;

c. Of the cost price of each item or article of tangible personal property stored in such localities for use or consumption in the Commonwealth;

d. Of the gross proceeds derived from the sale or charges for rooms, lodgings, or accommodations furnished to transients as set out in the definition of "retail sale" in § 58.1-602; and

e. Of the gross sales of any services provided in such localities that are expressly stated as taxable within this chapter.

2. No discount under § 58.1-622 shall be allowed for the tax described under this subsection. Except as otherwise provided herein, the tax under this subsection shall be administered and collected in the same manner and subject to the same penalties as provided for the tax imposed pursuant to subsection A.

3. The revenues generated by this subsection shall be distributed to the locality in which they were collected and used solely for construction of roads that will reduce traffic congestion on the highways of the Commonwealth. Prior to construction, the locality shall submit the project to the Commonwealth Transportation Board for approval. The Commonwealth Transportation Board's determination shall be based solely on a reduction in traffic congestion analysis.

§ 58.1-604. Imposition of use tax.

A. There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount of three and one-half percent through midnight on July 31, 2004, and four percent beginning on and after August 1, 2004:

1. Of the cost price of each item or article of tangible personal property used or consumed in this Commonwealth. Tangible personal property which has been acquired for use outside this Commonwealth and subsequently becomes subject to the tax imposed hereunder shall be taxed on the basis of its cost price if such property is brought within this Commonwealth for use within six months of its acquisition; but if so brought within this Commonwealth six months or more after its acquisition, such property shall be taxed on the basis of the current market value (but not in excess of its cost price) of such property at the time of its first use within this Commonwealth. Such tax shall be based on such proportion of the cost price or current market value as the duration of time of use within this Commonwealth bears to the total useful life of such property (but it shall be presumed in all cases that such property will remain within this Commonwealth for the remainder of its useful life unless convincing evidence is provided to the contrary).

2. Of the cost price of each item or article of tangible personal property stored outside this Commonwealth for use or consumption in this Commonwealth.

3. A transaction taxed under § 58.1-603 shall not also be taxed under this section, nor shall the same transaction be taxed more than once under either section.

4. The use tax shall not apply with respect to the use of any article of tangible personal property brought into this Commonwealth by a nonresident individual, visiting in Virginia, for his personal use,

551 while within this Commonwealth.

552 5. The use tax shall not apply to out-of-state mail order catalog purchases totaling \$100 or less
553 during any calendar year.

554 *B. 1. In addition to the tax imposed pursuant to subsection A and all other taxes and fees now*
555 *imposed by law, there is hereby levied and imposed a tax upon the use or consumption of tangible*
556 *personal property in the Counties of Isle of Wight, James City, and York and the Cities of Chesapeake,*
557 *Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg, or*
558 *the storage of such property outside the Commonwealth for use or consumption in such localities, in the*
559 *amount of one percent:*

560 *a. Of the cost price of each item or article of tangible personal property used or consumed in such*
561 *localities. Tangible personal property that has been acquired for use outside the Commonwealth and*
562 *subsequently becomes subject to the tax imposed hereunder shall be taxed on the basis of its cost price*
563 *if such property is brought within such localities for use within six months of its acquisition; but if so*
564 *brought within such localities six months or more after its acquisition, such property shall be taxed on*
565 *the basis of the current market value (but not in excess of its cost price) of such property at the time of*
566 *its first use within such localities. Such tax shall be based on such proportion of the cost price or*
567 *current market value as the duration of time of use within such localities bears to the total useful life of*
568 *such property (but it shall be presumed in all cases that such property will remain within such localities*
569 *for the remainder of its useful life unless convincing evidence is provided to the contrary); and*

570 *b. Of the cost price of each item or article of tangible personal property stored outside the*
571 *Commonwealth for use or consumption in such localities.*

572 2. A transaction taxed under subsection B of § 58.1-603 shall not also be taxed under this
573 subsection, nor shall the same transaction be taxed more than once under either subsection.

574 3. The use tax shall not apply with respect to the use of any article of tangible personal property
575 brought into such localities by a nonresident individual, visiting in Virginia, for his personal use, while
576 within such localities.

577 4. The use tax shall not apply to out-of-state mail order catalog purchases totaling \$100 or less
578 during any calendar year.

579 5. No discount under § 58.1-622 shall be allowed for the tax described under this subsection. Except
580 as otherwise provided herein, the tax under this subsection shall be administered and collected in the
581 same manner and subject to the same penalties as provided for the tax imposed pursuant to subsection
582 A.

583 6. The revenues generated by this subsection shall be distributed to the locality in which they were
584 collected and used solely for construction of roads that will reduce traffic congestion on the highways of
585 the Commonwealth. Prior to construction, the locality shall submit the project to the Commonwealth
586 Transportation Board for approval. The Commonwealth Transportation Board's determination shall be
587 based solely on a reduction in traffic congestion analysis.

588 **§ 58.1-605. To what extent and under what conditions cities and counties may levy local sales**
589 **taxes; collection thereof by Commonwealth and return of revenue to each city or county entitled**
590 **thereto.**

591 A. No county, city or town shall impose any local general sales or use tax or any local general retail
592 sales or use tax except as authorized by this section.

593 B. The council of any city and the governing body of any county may levy a general retail sales tax
594 at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall
595 be added to the rate of the state sales tax imposed by §§ 58.1-603 and 58.1-604 and shall be subject to
596 all the provisions of this chapter and the rules and regulations published with respect thereto. No
597 discount under § 58.1-622 shall be allowed on a local sales tax.

598 C. The council of any city and the governing body of any county desiring to impose a local sales tax
599 under this section may do so by the adoption of an ordinance stating its purpose and referring to this
600 section, and providing that such ordinance shall be effective on the first day of a month at least 60 days
601 after its adoption. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so
602 that it will be received within five days after its adoption.

603 D. Any local sales tax levied under this section shall be administered and collected by the Tax
604 Commissioner in the same manner and subject to the same penalties as provided for the state sales tax.

605 E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid
606 into the state treasury to the credit of a special fund which is hereby created on the Comptroller's books
607 under the name "Collections of Local Sales Taxes." Such local sales tax moneys shall be credited to the
608 account of each particular city or county levying a local sales tax under this section. The basis of such
609 credit shall be the city or county in which the sales were made as shown by the records of the
610 Department and certified by it monthly to the Comptroller, namely, the city or county of location of
611 each place of business of every dealer paying the tax to the Commonwealth without regard to the city or
612 county of possible use by the purchasers. If a dealer has any place of business located in more than one

political subdivision by reason of the boundary line or lines passing through such place of business, the amount of sales tax paid by such a dealer with respect to such place of business shall be treated for the purposes of this section as follows: one-half shall be assignable to each political subdivision where two are involved, one-third where three are involved, and one-fourth where four are involved.

F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in any month for the preceding month, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper amount in favor of each city or county entitled to the monthly return of its local sales tax moneys, and such payments shall be charged to the account of each such city or county under the special fund created by this section. If errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall be corrected and adjustments made in the payments for the next two months as follows: one-half of the total adjustment shall be included in the payments for the next two months. In addition, the payment shall include a refund of amounts erroneously not paid to the city or county and not previously refunded during the three years preceding the discovery of the error. A correction and adjustment in payments described in this subsection due to the misallocation of funds by the dealer shall be made within three years of the date of the payment error.

G. Such payments to counties are subject to the qualification that in any county wherein is situated any incorporated town constituting a special school district and operated as a separate school district under a town school board of three members appointed by the town council, the county treasurer shall pay into the town treasury for general governmental purposes the proper proportionate amount received by him in the ratio that the school age population of such town bears to the school age population of the entire county. If the school age population of any town constituting a separate school district is increased by the annexation of territory since the last estimate of school age population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school age population of such town as shown by the last such estimate and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

H. One-half of such payments to counties are subject to the further qualification, other than as set out in subsection G ~~above~~, that in any county wherein is situated any incorporated town not constituting a separate special school district which has complied with its charter provisions providing for the election of its council and mayor for a period of at least four years immediately prior to the adoption of the sales tax ordinance, the county treasurer shall pay into the town treasury of each such town for general governmental purposes the proper proportionate amount received by him in the ratio that the school age population of each such town bears to the school age population of the entire county, based on the latest estimate provided by the Weldon Cooper Center for Public Service. The preceding requirement pertaining to the time interval between compliance with election provisions and adoption of the sales tax ordinance shall not apply to a tier-city. If the school age population of any such town not constituting a separate special school district is increased by the annexation of territory or otherwise since the last estimate of school age population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school age population of such town as shown by the last such estimate and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

I. Notwithstanding the provisions of subsection H, the board of supervisors of a county may, in its discretion, appropriate funds to any incorporated town not constituting a separate school district within such county which has not complied with the provisions of its charter relating to the elections of its council and mayor, an amount not to exceed the amount it would have received from the tax imposed by this chapter if such election had been held.

J. It is further provided that if any incorporated town which would otherwise be eligible to receive funds from the county treasurer under subsection G or H ~~of this section~~ be located in a county which does not levy a general retail sales tax under the provisions of this law, such town may levy a general retail sales tax at the rate of one percent to provide revenue for the general fund of the town, subject to all the provisions of this section generally applicable to cities and counties. Any tax levied under the authority of this subsection shall in no case continue to be levied on or after the effective date of a county ordinance imposing a general retail sales tax in the county within which such town is located.

K. 1. Beginning January 1, 2016, in addition to the tax imposed pursuant to subsection B, the governing body of each of the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park and the County of Arlington may, by ordinance, impose an additional retail sales tax at the rate of one-half percent.

2. No discount under § 58.1-622 shall be allowed for the tax described under this subsection. Except as otherwise provided herein, the tax under this subsection shall be administered and collected in the same manner and subject to the same penalties as provided for the tax imposed pursuant to subsection

674 B.

675 3. *The revenues generated by this subsection shall be distributed to the locality in which they were*
676 *collected and used solely for construction of roads that will reduce traffic congestion on the highways of*
677 *the Commonwealth. Prior to construction, the locality shall submit the project to the Commonwealth*
678 *Transportation Board for approval. The Commonwealth Transportation Board's determination shall be*
679 *based solely on a reduction in traffic congestion analysis.*

680 **§ 58.1-606. To what extent and under what conditions cities and counties may levy local use**
681 **tax; collection thereof by Commonwealth and return of revenues to the cities and counties.**

682 A. The council of any city and the governing body of any county which has levied or may hereafter
683 levy a city or county sales tax under § 58.1-605 may levy a city or county use tax at the rate of one
684 percent to provide revenue for the general fund of such city or county. Such tax shall be added to the
685 rate of the state use tax imposed by this chapter and shall be subject to all the provisions of this chapter,
686 and all amendments thereof, and the rules and regulations published with respect thereto, except that no
687 discount under § 58.1-622 shall be allowed on a local use tax.

688 B. The council of any city and the governing body of any county desiring to impose a local use tax
689 under this section may do so in the manner following:

690 1. If the city or county has previously imposed the local sales tax authorized by § 58.1-605, the local
691 use tax may be imposed by the council or governing body by the adoption of a resolution by a majority
692 of all the members thereof, by a recorded yea and nay vote, stating its purpose and referring to this
693 section, and providing that the local use tax shall become effective on the first day of a month at least
694 60 days after the adoption of the resolution. A certified copy of such resolution shall be forwarded to
695 the Tax Commissioner so that it will be received within five days after its adoption. The resolution
696 authorized by this paragraph may be adopted in the manner stated notwithstanding any other provision
697 of law, including any charter provision.

698 2. If the city or county has not imposed the local sales tax authorized by § 58.1-605, the local use
699 tax may be imposed by ordinance together with the local sales tax in the manner set out in subsections
700 B and C of § 58.1-605.

701 C. Any local use tax levied under this section shall be administered and collected by the Tax
702 Commissioner in the same manner and subject to the same penalties as provided for the state use tax.

703 D. The local use tax authorized by this section shall not apply to transactions to which the sales tax
704 applies, the situs of which for state and local sales tax purposes is the city or county of location of each
705 place of business of every dealer paying the tax to the Commonwealth without regard to the city or
706 county of possible use by the purchasers. However, the local use tax authorized by this section shall
707 apply to tangible personal property purchased without this Commonwealth for use or consumption
708 within the city or county imposing the local use tax, or stored within the city or county for use or
709 consumption, where the property would have been subject to the sales tax if it had been purchased
710 within this Commonwealth. The local use tax shall also apply to leases or rentals of tangible personal
711 property where the place of business of the lessor is without this Commonwealth and such leases or
712 rentals are subject to the state tax. Moreover, the local use tax shall apply in all cases in which the state
713 use tax applies.

714 E. Out-of-state dealers who hold certificates of registration to collect the use tax from their customers
715 for remittance to this Commonwealth shall, to the extent reasonably practicable, in filing their monthly
716 use tax returns with the Tax Commissioner, break down their shipments into this Commonwealth by
717 cities and counties so as to show the city or county of destination. If, however, the out-of-state dealer is
718 unable accurately to assign any shipment to a particular city or county, the local use tax on the tangible
719 personal property involved shall be remitted to the Commonwealth by such dealer without attempting to
720 assign the shipment to any city or county.

721 F. Local use tax revenue shall be distributed among the cities and counties for which it is collected,
722 respectively, as shown by the records of the Department, and the procedure shall be the same as that
723 prescribed for distribution of local sales tax revenue under § 58.1-605. The local use tax revenue that is
724 not accurately assignable to a particular city or county shall be distributed monthly by the appropriate
725 state authorities among the cities and counties in this Commonwealth imposing the local use tax upon
726 the basis of taxable retail sales in the respective cities and counties in which the local sales and use tax
727 was in effect in the taxable month involved, as shown by the records of the Department, and computed
728 with respect to taxable retail sales as reflected by the amounts of the local sales tax revenue distributed
729 among such cities and counties, respectively, in the month of distribution. Notwithstanding any other
730 provision of this section, the Tax Commissioner shall develop a uniform method to distribute local use
731 tax. Any significant changes to the method of local use tax distribution shall be phased in over a
732 five-year period. Distribution information shall be shared with the affected localities prior to
733 implementation of the changes.

734 G. All local use tax revenue shall be used, applied or disbursed by the cities and counties as
735 provided in § 58.1-605 with respect to local sales tax revenue.

H. 1. Beginning January 1, 2016, in addition to the tax imposed pursuant to subsection B, the governing body of each of the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park and the County of Arlington may, by ordinance, impose an additional retail use tax at the rate of one-half percent.

2. No discount under § 58.1-622 shall be allowed for the tax described under this subsection. Except as otherwise provided herein, the tax under this subsection shall be administered and collected in the same manner and subject to the same penalties as provided for the tax imposed pursuant to subsection B.

3. The revenues generated by this subsection shall be distributed to the locality in which they were collected and used solely for construction of roads that will reduce traffic congestion on the highways of the Commonwealth. Prior to construction, the locality shall submit the project to the Commonwealth Transportation Board for approval. The Commonwealth Transportation Board's determination shall be based solely on a reduction in traffic congestion analysis.

§ 58.1-609.1. Governmental and commodities exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Fuels which are subject to the tax imposed by Chapter 22 (§ 58.1-2200 et seq.). Persons who are refunded any such fuel tax shall, however, be subject to the tax imposed by this chapter, unless such taxes would be specifically exempted pursuant to any provision of this section.

2. Motor vehicles, trailers, semitrailers, mobile homes and travel trailers.

3. Gas, electricity, or water when delivered to consumers through mains, lines, or pipes.

4. Tangible personal property for use or consumption by the Commonwealth, any political subdivision of the Commonwealth, or the United States. This exclusion shall not apply to sales and leases to privately owned financial and other privately owned corporations chartered by the United States. Further, this exemption shall not apply to tangible personal property which is acquired by the Commonwealth or any of its political subdivisions and then transferred to private businesses for their use in a facility or real property improvement to be used by a private entity or for nongovernmental purposes other than tangible personal property acquired by the Herbert H. Bateman Advanced Shipbuilding and Carrier Integration Center and transferred to a Qualified Shipbuilder as defined in the third enactment of Chapter 790 of the 1998 Acts of the General Assembly.

5. Aircraft subject to tax under Chapter 15 (§ 58.1-1500 et seq.).

6. Motor fuels and alternative fuels for use in a commercial watercraft, as defined in § 58.1-2201, upon which a fuel tax is refunded pursuant to § 58.1-2259.

7. Sales by a government agency of the official flags of the United States, the Commonwealth of Virginia, or of any county, city or town.

8. Materials furnished by the State Board of Elections pursuant to §§ 24.2-404 through 24.2-407.

9. Watercraft as defined in § 58.1-1401.

10. Tangible personal property used in and about a marine terminal under the supervision of the Virginia Port Authority for handling cargo, merchandise, freight and equipment. This exemption shall apply to agents, lessees, sublessees or users of tangible personal property owned by or leased to the Virginia Port Authority and to property acquired or used by the Authority or by a nonstock, nonprofit corporation that operates a marine terminal or terminals on behalf of the Authority.

11. Sales by prisoners confined in state correctional facilities of artistic products personally made by the prisoners as authorized by § 53.1-46.

12. Tangible personal property for use or consumption by the Virginia Department for the Blind and Vision Impaired or any nominee, as defined in § 51.5-60, of such Department.

13. [Expired.]

14. Tangible personal property sold to residents and patients of the Virginia Veterans Care Center at a canteen operated by the Department of Veterans Services.

15. Tangible personal property for use or consumption by any nonprofit organization whose members include the Commonwealth and other states and which is organized for the purpose of fostering interstate cooperation and excellence in government.

16. Tangible personal property purchased for use or consumption by any soil and conservation district which is organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1.

17. Tangible personal property sold or leased to Alexandria Transit Company, Greater Lynchburg Transit Company, GRTC Transit System, or Greater Roanoke Transit Company, or to any other transit company that is owned, operated, or controlled by any county, city, or town, or any combination thereof, that provides public transportation services, and/or tangible personal property sold or leased to any county, city, or town, or any combination thereof, that is transferred to any of the companies set forth in this subdivision owned, operated, or controlled by any county, city, or town, or any combination

thereof, that provides public transportation services.

18. (Effective until July 1, 2017) Qualified products designated as Energy Star or WaterSense with a sales price of \$2,500 or less per product purchased for noncommercial home or personal use. The exemption provided by this subdivision shall apply only to sales occurring during the four-day period that begins each year on the Friday before the second Monday in October and ends at midnight on the second Monday in October.

For the purposes of this exemption, an Energy Star qualified product is any dishwasher, clothes washer, air conditioner, ceiling fan, compact fluorescent light bulb, dehumidifier, programmable thermostat, or refrigerator, the energy efficiency of which has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each such agency's requirements under the Energy Star program. For the purposes of this exemption, WaterSense qualified products are those that have been recognized as being water efficient by the WaterSense program sponsored by the U.S. Environmental Protection Agency as indicated by a WaterSense label.

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

§ 58.1-609.10. Miscellaneous exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Artificial or propane gas, firewood, coal or home heating oil used for domestic consumption. "Domestic consumption" means the use of artificial or propane gas, firewood, coal or home heating oil by an individual purchaser for other than business, commercial or industrial purposes. The Tax Commissioner shall establish by regulation a system for use by dealers in classifying individual purchases for domestic or nondomestic use based on the principal usage of such gas, wood, coal or oil. Any person making a nondomestic purchase and paying the tax pursuant to this chapter who uses any portion of such purchase for domestic use may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for a refund of the tax paid on the domestic use portion.

2. An occasional sale, as defined in § 58.1-602. A nonprofit organization that is ~~eligible to be granted an exemption on its purchases pursuant to § 58.1-609.11~~ exempt from federal income taxation (i) under § 501(c)(3) of the Internal Revenue Code or (ii) under § 501(c)(4) of the Internal Revenue Code and, if it is exempt under § 501(c)(4) of the Internal Revenue Code, is organized for a charitable purpose, and that is otherwise eligible for the exemption pursuant to this subdivision, shall be exempt pursuant to this subdivision on its sales of (i) (a) food, prepared food and meals and (ii) (b) tickets to events that include the provision of food, prepared food and meals, so long as such sales take place on fewer than 24 occasions in a calendar year.

3. Tangible personal property for future use by a person for taxable lease or rental as an established business or part of an established business, or incidental or germane to such business, including a simultaneous purchase and taxable leaseback.

4. Delivery of tangible personal property outside the Commonwealth for use or consumption outside of the Commonwealth. Delivery of goods destined for foreign export to a factor or export agent shall be deemed to be delivery of goods for use or consumption outside of the Commonwealth.

5. Tangible personal property purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.

6. Tangible personal property purchased for use or consumption in the performance of maintenance and repair services at Nuclear Regulatory Commission-licensed nuclear power plants located outside the Commonwealth.

7. Beginning July 1, 1997, and ending July 1, 2006, a professional's provision of original, revised, edited, reformatted or copied documents, including but not limited to documents stored on or transmitted by electronic media, to its client or to third parties in the course of the professional's rendition of services to its clientele.

8. School lunches sold and served to pupils and employees of schools and subsidized by government;

school textbooks sold by a local board or authorized agency thereof; and school textbooks sold for use by students attending a college or other institution of learning, when sold (i) by such institution of learning or (ii) by any other dealer, when such textbooks have been certified by a department or instructor of such institution of learning as required textbooks for students attending courses at such institution.

9. Medicines, drugs, hypodermic syringes, artificial eyes, contact lenses, eyeglasses, eyeglass cases, and contact lens storage containers when distributed free of charge, all solutions or sterilization kits or other devices applicable to the wearing or maintenance of contact lenses or eyeglasses when distributed free of charge, and hearing aids dispensed by or sold on prescriptions or work orders of licensed physicians, dentists, optometrists, ophthalmologists, opticians, audiologists, hearing aid dealers and fitters, nurse practitioners, physician assistants, and veterinarians; controlled drugs purchased for use by a licensed physician, optometrist, licensed nurse practitioner, or licensed physician assistant in his professional practice, regardless of whether such practice is organized as a sole proprietorship, partnership, or professional corporation, or any other type of corporation in which the shareholders and operators are all licensed physicians, optometrists, licensed nurse practitioners, or licensed physician assistants engaged in the practice of medicine, optometry, or nursing; medicines and drugs purchased for use or consumption by a licensed hospital, nursing home, clinic, or similar corporation not otherwise exempt under this section; and samples of prescription drugs and medicines and their packaging distributed free of charge to authorized recipients in accordance with the federal Food, Drug, and Cosmetic Act (21 U.S.C.A. § 301 et seq., as amended). With the exceptions of those medicines and drugs used for agricultural production animals that are exempt to veterinarians under subdivision 1 of § 58.1-609.2, any veterinarian dispensing or selling medicines or drugs on prescription shall be deemed to be the user or consumer of all such medicines and drugs.

10. Wheelchairs and parts therefor, braces, crutches, prosthetic devices, orthopedic appliances, catheters, urinary accessories, other durable medical equipment and devices, and related parts and supplies specifically designed for those products; and insulin and insulin syringes, and equipment, devices or chemical reagents that may be used by a diabetic to test or monitor blood or urine, when such items or parts are purchased by or on behalf of an individual for use by such individual. Durable medical equipment is equipment that (i) can withstand repeated use, (ii) is primarily and customarily used to serve a medical purpose, (iii) generally is not useful to a person in the absence of illness or injury, and (iv) is appropriate for use in the home.

11. Drugs and supplies used in hemodialysis and peritoneal dialysis.

12. Special equipment installed on a motor vehicle when purchased by a handicapped person to enable such person to operate the motor vehicle.

13. Special typewriters and computers and related parts and supplies specifically designed for those products used by handicapped persons to communicate when such equipment is prescribed by a licensed physician.

14. a. (i) Any nonprescription drugs and proprietary medicines purchased for the cure, mitigation, treatment, or prevention of disease in human beings and (ii) any samples of nonprescription drugs and proprietary medicines distributed free of charge by the manufacturer, including packaging materials and constituent elements and ingredients.

b. The terms "nonprescription drugs" and "proprietary medicines" shall be defined pursuant to regulations promulgated by the Department of Taxation. The exemption authorized in this subdivision shall not apply to cosmetics.

15. Tangible personal property withdrawn from inventory and donated to (i) an organization exempt from taxation under § 501(c) (3) of the Internal Revenue Code or (ii) the Commonwealth, any political subdivision of the Commonwealth, or any school, agency, or instrumentality thereof.

16. Tangible personal property purchased by nonprofit churches that are exempt from taxation under § 501(c) (3) of the Internal Revenue Code, or whose real property is exempt from local taxation pursuant to the provisions of § 58.1-3606, for use (i) in religious worship services by a congregation or church membership while meeting together in a single location and (ii) in the libraries, offices, meeting or counseling rooms or other rooms in the public church buildings used in carrying out the work of the church and its related ministries, including kindergarten, elementary and secondary schools. The exemption for such churches shall also include baptistries; bulletins, programs, newspapers and newsletters that do not contain paid advertising and are used in carrying out the work of the church; gifts including food for distribution outside the public church building; food, disposable serving items, cleaning supplies and teaching materials used in the operation of camps or conference centers by the church or an organization composed of churches that are exempt under this subdivision and which are used in carrying out the work of the church or churches; and property used in caring for or maintaining property owned by the church including, but not limited to, mowing equipment; and building materials installed by the church, and for which the church does not contract with a person or entity to have

920 installed, in the public church buildings used in carrying out the work of the church and its related
921 ministries, including, but not limited to worship services; administrative rooms; and kindergarten,
922 elementary, and secondary schools.

923 17. Medical products and supplies, which are otherwise taxable, such as bandages, gauze dressings,
924 incontinence products and wound-care products, when purchased by a Medicaid recipient through a
925 Department of Medical Assistance Services provider agreement.

926 18. Beginning July 1, 2007, and ending July 1, 2012, multifuel heating stoves used for heating an
927 individual purchaser's residence. "Multifuel heating stoves" are stoves that are capable of burning a wide
928 variety of alternative fuels, including, but not limited to, shelled corn, wood pellets, cherry pits, and
929 olive pits.

930 19. Fabrication of animal meat, grains, vegetables, or other foodstuffs when the purchaser (i) supplies
931 the foodstuffs and they are consumed by the purchaser or his family, (ii) is an organization exempt from
932 taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code, or (iii) donates the foodstuffs to an
933 organization exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code.

934 **§ 58.1-609.12. Reports to General Assembly on tax exemptions studies.**

935 A. The Tax Commissioner shall determine the fiscal, economic and policy impact of each sales and
936 use tax exemption set out in §§ 58.1-609.10 and 58.1-609.11 and report such findings to the chairmen
937 of the House and Senate Finance Committees and the chairman of the House Appropriations Committee
938 no later than December 1 of each year. Subgroups of the exemptions shall be reviewed in periodic
939 cycles and reports issued on a rotating basis in accordance with a schedule determined by the Tax
940 Commissioner; ~~excluding the sales and use tax exemptions for nonprofit entities provided by~~
941 ~~§ 58.1-609.11, which shall be reviewed and reported on annually.~~ When such reports have been
942 completed for each subgroup of the sales and use tax exemptions, the Tax Commissioner shall repeat the
943 process beginning with the subgroup of exemptions for which a report was made in 2007. No exemption
944 shall be analyzed under the provisions of this section more frequently than once every five years,
945 excluding the annual fiscal impact of the sales and use tax exemptions for nonprofit entities, which shall
946 be studied each year.

947 B. When the Tax Commissioner investigates and analyzes the tax exemptions in § 58.1-609.10, the
948 following information shall be considered and included in the report:

- 949 1. Estimate of foregone state and local revenues as a direct result of the exemption;
- 950 2. Beneficiaries of the exemption;
- 951 3. Direct or indirect local, state, or federal government assistance received by the persons or entities
952 granted the exemption, to the extent such information is reasonably available;
- 953 4. The extent to which the comparable person, entity, property, service, or industry is exempt from
954 the retail sales and use tax in other states, particularly states contiguous to the Commonwealth;
- 955 5. Any external statutory, constitutional, or judicial mandates supporting the exemption;
- 956 6. Other Virginia taxes to which the person, entity, property, service, or industry is subject;
- 957 7. Similar taxpayers who are not entitled to a retail sales and use tax exemption; and
- 958 8. Other criteria, facts or circumstances that may be relevant to the exemption.

959 C. ~~When the Tax Commissioner investigates and analyzes the tax exemptions in § 58.1-609.11, he~~
960 ~~shall report on the extent to which the person, entity, property, service, or industry is exempt from the~~
961 ~~retail sales and use tax in other states, particularly states contiguous to the Commonwealth.~~

962 D. For purposes of this section, the Department of Taxation and the Department of Agriculture and
963 Consumer Services shall be allowed to share information when necessary to supplement the information
964 required to be reported under this section.

965 **§ 58.1-623. Sales or leases presumed subject to tax; exemption certificates.**

966 A. All sales or leases are subject to the tax until the contrary is established. The burden of proving
967 that a sale, distribution, lease, or storage of tangible personal property is not taxable is upon the dealer
968 unless he takes from the taxpayer a certificate to the effect that the property is exempt under this
969 chapter.

970 B. The certificate mentioned in this section shall relieve the person who takes such certificate from
971 any liability for the payment or collection of the tax, except upon notice from the Tax Commissioner
972 that such certificate is no longer acceptable. Such certificate shall be signed by and bear the name and
973 address of the taxpayer; shall indicate the number of the certificate of registration, if any, issued to the
974 taxpayer; shall indicate the general character of the tangible personal property sold, distributed, leased,
975 or stored, or to be sold, distributed, leased, or stored under a blanket exemption certificate; and shall be
976 substantially in such form as the Tax Commissioner may prescribe. ~~If an exemption pertains to a~~
977 ~~nonprofit organization, other than a nonprofit church, that has qualified for a sales and use tax~~
978 ~~exemption under § 58.1-609.11, the exemption certificate shall be valid until the scheduled expiration~~
979 ~~date stated on the exemption certificate.~~

980 C. If a taxpayer who gives a certificate under this section makes any use of the property other than
981 an exempt use or retention, demonstration, or display while holding the property for resale, distribution,

or lease in the regular course of business, such use shall be deemed a taxable sale by the taxpayer as of the time the property or service is first used by him, and the cost of the property to him shall be deemed the sales price of such retail sale. If the sole use of the property other than retention, demonstration, or display in the regular course of business is the rental of the property while holding it for sale, distribution, or lease, the taxpayer may elect to pay the tax on the amount of the rental charged, rather than the cost of the property to him.

D. If a taxpayer gives a certificate under this section with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased, but of such similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales or distributions from the mass of commingled goods shall be deemed to be sales or distributions of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold or distributed.

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

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

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

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

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

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

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

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

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

Of the remaining amount:

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

b. Forty percent of the funds shall be allocated by the Aviation Board for air carrier and reliever

airports on a discretionary basis, except airports owned or leased by MWAA.

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

3a. There is hereby created in the Department of the Treasury a special nonreverting fund that shall be a part of the Transportation Trust Fund and that shall be known as the Commonwealth Space Flight Fund. The Commonwealth Space Flight Fund shall be established on the books of the Comptroller and the funds remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it.

a. The amounts allocated to the Commonwealth Space Flight Fund pursuant to § 33.1-23.03:2 shall be allocated by the Commonwealth Transportation Board to the Board of Directors of the Virginia Commercial Space Flight Authority to be used to support the capital needs, maintenance, and operating costs of any and all facilities owned and operated by the Virginia Commercial Space Flight Authority.

b. Commonwealth Space Flight Fund revenue shall be allocated by the Board of Directors to the Virginia Commercial Space Flight Authority in order to foster and stimulate the growth of the commercial space flight industry in Virginia.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

f. The remaining 25 percent shall be distributed for capital purposes on the basis of 95 percent of the

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

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

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

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

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

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

B. The sales and use tax revenue generated by a ~~one~~ 1.230 percent sales and use tax shall be distributed among the counties and cities of the Commonwealth in the manner provided in subsections C and D.

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

D. The net revenue so distributable among the counties and cities shall be apportioned and distributed upon the basis of the latest yearly estimate of the population of cities and counties ages five to 19, provided by the Weldon Cooper Center for Public Service of the University of Virginia. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for persons who are domiciled in orphanages or charitable institutions or who are dependents living on any federal military or naval reservation or other federal property within the school division in which the institutions or federal military or naval reservation or other federal property is located. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for members of the military services who are under 20 years of age within the school division in which the parents or guardians of such persons legally reside. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for individuals receiving services in state hospitals, state training centers, or

1166 mental health facilities, persons who are confined in state or federal correctional institutions, or persons
1167 who attend the Virginia School for the Deaf and the Blind within the school division in which the
1168 parents or guardians of such persons legally reside. Such population estimate produced by the Weldon
1169 Cooper Center for Public Service of the University of Virginia shall account for persons who attend
1170 institutions of higher education within the school division in which the student's parents or guardians
1171 legally reside. To such estimate, the Department of Education shall add the population of students with
1172 disabilities, ages two through four and 20 through 21, as provided to the Department of Education by
1173 school divisions. The revenue so apportionable and distributable is hereby appropriated to the several
1174 counties and cities for maintenance, operation, capital outlays, debt and interest payments, or other
1175 expenses incurred in the operation of the public schools, which shall be considered as funds raised from
1176 local resources. In any county, however, wherein is situated any incorporated town constituting a school
1177 division, the county treasurer shall pay into the town treasury for maintenance, operation, capital outlays,
1178 debt and interest payments, or other expenses incurred in the operation of the public schools, the proper
1179 proportionate amount received by him in the ratio that the school population of such town bears to the
1180 school population of the entire county. If the school population of any city or of any town constituting a
1181 school division is increased by the annexation of territory since the last estimate of school population
1182 provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this
1183 section, be added to the school population of such city or town as shown by the last such estimate and a
1184 proper reduction made in the school population of the county or counties from which the annexed
1185 territory was acquired.

1186 E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a
1187 two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of
1188 hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment,
1189 wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the
1190 most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of
1191 Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated
1192 Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used,
1193 in part, to defray the cost of law enforcement. Not later than 30 days after the close of each quarter, the
1194 Comptroller shall transfer to the Game Protection Fund the appropriate amount of collections to be
1195 dedicated to such Fund. At any time that the balance in the Capital Improvement Fund, established
1196 under § 29.1-101.01, is equal to or in excess of \$35 million, any portion of sales and use tax revenues
1197 that would have been transferred to the Game Protection Fund, established under § 29.1-101, in excess
1198 of the net operating expenses of the Board, after deduction of other amounts which accrue to the Board
1199 and are set aside for the Game Protection Fund, shall remain in the general fund until such time as the
1200 balance in the Capital Improvement Fund is less than \$35 million.

1201 F. 1. Of the net revenue generated from the one-half percent increase in the rate of the state sales
1202 and use tax effective August 1, 2004, pursuant to enactments of the 2004 Special Session I of the
1203 General Assembly, the Comptroller shall transfer from the general fund of the state treasury to the
1204 Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund established under
1205 § 58.1-638.1 an amount equivalent to one-half of the net revenue generated from such one-half percent
1206 increase as provided in this subdivision. The transfers to the Public Education Standards of
1207 Quality/Local Real Estate Property Tax Relief Fund under this subdivision shall be for one-half of the
1208 net revenue generated (and collected in the succeeding month) from such one-half percent increase for
1209 the month of August 2004 and for each month thereafter.

1210 2. For the purposes of the Comptroller making the required transfers under subdivision 1, the Tax
1211 Commissioner shall make a written certification to the Comptroller no later than the twenty-fifth of each
1212 month certifying the sales and use tax revenues generated in the preceding month. Within three calendar
1213 days of receiving such certification, the Comptroller shall make the required transfers to the Public
1214 Education Standards of Quality/Local Real Estate Property Tax Relief Fund.

1215 G. If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall be
1216 corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.

1217 H. The term "net revenue," as used in this section, means the gross revenue received into the general
1218 fund or the Transportation Trust Fund of the state treasury under the preceding sections of this chapter,
1219 less refunds to taxpayers.

1220 **§ 58.1-802.2. Northern Virginia congestion relief fee.**

1221 A. In addition to any other tax imposed under the provisions of this chapter, there is hereby imposed
1222 a fee, delineated as the "Northern Virginia congestion relief fee," on each deed, instrument, or writing
1223 by which lands, tenements, or other realty located in any county or city that is imposing the tax
1224 pursuant to subdivision B 2 of § 58.1-3833 or (ii) the taxes pursuant to subsection K of § 58.1-605 and
1225 subsection H of § 58.1-606 is sold and is granted, assigned, transferred, or otherwise conveyed to or
1226 vested in the purchaser or any other person by such purchaser's direction. The rate of the fee, when the
1227 consideration or value of the interest equals or exceeds \$100, shall be \$0.20 for each \$100 or fraction

thereof, exclusive of the value of any lien or encumbrance remaining thereon at the time of the sale, whether such lien is assumed or the realty is sold subject to such lien or encumbrance.

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

No such deed, instrument, or other writing shall be admitted to record without certification of the clerk of the court wherein first recorded having been affixed thereto that the fee imposed by this section has been paid. The clerk shall include within the certificate the amount of such fee collected thereon.

B. The revenues generated by this section shall be distributed to the locality in which the fees are collected to be used solely for construction of roads that will reduce traffic congestion on the highways of the Commonwealth. Prior to construction, the locality shall submit the project to the Commonwealth Transportation Board for approval. The Commonwealth Transportation Board's determination shall be based solely on a reduction in traffic congestion analysis.

C. Fees imposed by this section shall be collected pursuant to subsection B of § 58.1-802. However, the compensation allowed to the clerk of the court under such subsection shall not be applicable with regard to the fee collected under this section. The clerk shall return all fees collected pursuant to the authority granted under this section to the applicable locality as soon as practicable.

§ 58.1-811. Exemptions.

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

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

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

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

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

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

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

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

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

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

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

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

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

13. When the grantor is the personal representative of a decedent's estate or trustee under a will or inter vivos trust of which the decedent was the settlor, other than a security trust defined in § 55-58.1, and the sole purpose of such transfer is to comply with a devise or bequest in the decedent's will or to transfer title to one or more beneficiaries after the death of the settlor in accordance with a dispositive provision in the trust instrument; or

14. When the grantor is an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect

or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise would be unable to afford to buy a home through conventional means.

B. The taxes imposed by §§ 58.1-803 and 58.1-804 shall not apply to any deed of trust or mortgage:

1. Given by an incorporated college or other incorporated institution of learning not conducted for profit;

2. Given by the trustee or trustees of a church or religious body or given by an incorporated church or religious body, or given by a corporation mentioned in § 57-16.1;

3. Given by any nonstock corporation organized exclusively for the purpose of owning and/or operating a hospital or hospitals not for pecuniary profit;

4. Given by any local governmental entity or political subdivision of the Commonwealth to secure a debt payable to any other local governmental entity or political subdivision; or

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

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

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

2. Instrument or writing given to secure a debt;

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

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

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

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

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

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

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

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

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

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

Article 10.

Transient Occupancy Tax in Certain Counties.

§ 58.1-1742. Transient occupancy tax in certain counties in Northern Virginia.

In addition all other taxes authorized by law, there is hereby imposed an additional transient occupancy tax at the rate of two percent of the amount of charge for the occupancy of any room or space occupied in in any locality that is imposing the tax pursuant to subdivision B 2 of § 58.1-3833 or (ii) the taxes pursuant to subsection K of § 58.1-605 and subsection H of § 58.1-606.

The revenues generated by this section shall be distributed to the locality in which the tax was collected, to be used solely for construction of roads that will reduce traffic congestion on the highways of the Commonwealth. Prior to construction, the locality shall submit the project to the Commonwealth Transportation Board for approval. The Commonwealth Transportation Board's determination shall be based solely on a reduction in traffic congestion analysis.

§ 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1412 "Export" means to obtain motor fuel in Virginia for sale or distribution in another state, territory, or
1413 foreign country. Motor fuel delivered out-of-state by or for the seller constitutes an export by the seller,
1414 and motor fuel delivered out-of-state by or for the purchaser constitutes an export by the purchaser.
- 1415 "Exporter" means a person who obtains motor fuel in Virginia for sale or distribution in another
1416 state, territory, or foreign country.
- 1417 "Fuel" includes motor fuel and alternative fuel.
- 1418 "Fuel alcohol" means methanol or fuel grade ethanol.
- 1419 "Fuel alcohol provider" means a person who (i) produces fuel alcohol or (ii) imports fuel alcohol
1420 outside the terminal transfer system by means of a marine vessel, a transport truck, a tank wagon, or a
1421 railroad tank car.
- 1422 "Gasohol" means a blended fuel composed of gasoline and fuel grade ethanol.
- 1423 "Gasoline" means (i) all products that are commonly or commercially known or sold as gasoline and
1424 are suitable for use as a fuel in a highway vehicle, aircraft, or watercraft, other than products that have
1425 an American Society for Testing Materials octane number of less than 75 as determined by the motor
1426 method; (ii) a petroleum product component of gasoline, such as naphtha, reformat, or toluene; (iii)
1427 gasohol; and (iv) fuel grade ethanol. The term does not include aviation gasoline sold for use in an
1428 aircraft engine.
- 1429 "Governmental entity" means (i) the Commonwealth or any political subdivision thereof or (ii) the
1430 United States or its departments, agencies, and instrumentalities.
- 1431 "Gross gallons" means an amount of motor fuel measured in gallons, exclusive of any temperature,
1432 pressure, or other adjustments.
- 1433 "Heating oil" means any combustible liquid, including but not limited to dyed #1 fuel oil, dyed #2
1434 fuel oil, and kerosene, that is burned in a boiler, furnace, or stove for heating or for industrial
1435 processing purposes.
- 1436 "Highway" means every way or place of whatever nature open to the use of the public for purposes
1437 of vehicular travel in the Commonwealth, including the streets and alleys in towns and cities.
- 1438 "Highway vehicle" means a self-propelled vehicle designed for use on a highway.
- 1439 "*Hybrid electric motor vehicle*" means a motor vehicle that uses electricity and another source of
1440 motive power.
- 1441 "Import" means to bring motor fuel into Virginia by any means of conveyance other than in the fuel
1442 supply tank of a highway vehicle. Motor fuel delivered into Virginia from out-of-state by or for the
1443 seller constitutes an import by the seller, and motor fuel delivered into Virginia from out-of-state by or
1444 for the purchaser constitutes an import by the purchaser.
- 1445 "Importer" means a person who obtains motor fuel outside of Virginia and brings that motor fuel
1446 into Virginia by any means of conveyance other than in the fuel tank of a highway vehicle. For
1447 purposes of this chapter, a motor fuel transporter shall not be considered an importer.
- 1448 "In-state-only supplier" means (i) a supplier who is required to have a license and who elects not to
1449 collect the tax due the Commonwealth on motor fuel that is removed by that supplier at a terminal
1450 located in another state and has Virginia as its destination state or (ii) a supplier who does business only
1451 in Virginia.
- 1452 "Licensee" means any person licensed by the Commissioner pursuant to Article 2 (§ 58.1-2204 et
1453 seq.) of this chapter or § 58.1-2244.
- 1454 "Liquid" means any substance that is liquid above its freezing point.
- 1455 "Motor fuel" means gasoline, diesel fuel, blended fuel, and aviation fuel.
- 1456 "Motor fuel transporter" means a person who transports motor fuel for hire by means of a pipeline, a
1457 tank wagon, a transport truck, a railroad tank car, or a marine vessel.
- 1458 "Net gallons" means the amount of motor fuel measured in gallons when adjusted to a temperature of
1459 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch.
- 1460 "Occasional importer" means any person who (i) imports motor fuel by any means outside the
1461 terminal transfer system and (ii) is not required to be licensed as a bonded importer.
- 1462 "Permissive supplier" means an out-of-state supplier who elects, but is not required, to have a
1463 supplier's license under this chapter.
- 1464 "Person" means any individual; firm; cooperative; association; corporation; limited liability company;
1465 trust; business trust; syndicate; partnership; limited liability partnership; joint venture; receiver; trustee in
1466 bankruptcy; club, society or other group or combination acting as a unit; or public body, including but
1467 not limited to the Commonwealth, any other state, and any agency, department, institution, political
1468 subdivision or instrumentality of the Commonwealth or any other state.
- 1469 "Position holder" means a person who holds an inventory position of motor fuel in a terminal, as
1470 reflected on the records of the terminal operator. A person holds an "inventory position of motor fuel"
1471 when he has a contract with the terminal operator for the use of storage facilities and terminaling
1472 services for fuel at the terminal. The term includes a terminal operator who owns fuel in the terminal.
- 1473 "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

1535 (\$0.175) per gallon on all other alternative fuel used to operate a highway vehicle. The Commissioner
1536 shall determine the equivalent rate applicable to such other alternative fuels.

1537 A. (Contingent effective date - see Editor's notes) There is hereby levied a tax at the rate of sixteen
1538 cents (\$0.16) per gallon on liquid alternative fuel used to operate a highway vehicle by means of a
1539 vehicle supply tank that stores fuel only for the purpose of supplying fuel to operate the vehicle. There
1540 is hereby levied a tax at a rate equivalent to sixteen cents (\$0.16) per gallon on all other alternative fuel
1541 used to operate a highway vehicle. The Commissioner shall determine the equivalent rate applicable to
1542 such other alternative fuels.

1543 B. In addition to any tax imposed by this article, there is hereby levied an annual license tax of \$50
1544 \$102 per vehicle on each highway vehicle registered in Virginia that is an electric motor vehicle or a
1545 hybrid electric motor vehicle. If such a highway vehicle is registered for a period other than one year as
1546 provided under § 46.2-646, the license tax shall be multiplied by the number of years or fraction thereof
1547 that the vehicle will be registered.

1548 A refund of the tax paid for the purchase of fuel, including, but not limited to the tax pursuant to
1549 § 58.1-2288.1, shall be granted in accordance with the provisions of § 58.1-2261 to any person who
1550 establishes to the satisfaction of the Commissioner that such person has paid tax upon any fuel used to
1551 fuel a hybrid electric motor vehicle for which a current annual license tax has been paid pursuant to
1552 this subsection.

1553 **§ 58.1-2261. Refund procedure; investigations.**

1554 A. Any person entitled to a refund pursuant to § 58.1-2259 or 58.1-2259.1 shall file with the
1555 Commissioner an application on a form prepared and furnished by the Commissioner. Such application
1556 shall contain the information and certifications required by the Commissioner. The applicant shall set
1557 forth the basis for the claimed refund, the total amount of such fuel purchased and used by such
1558 applicant, and how such fuel was used. The applicant shall retain the paid ticket, invoice, or other
1559 document from the seller documenting the purchase of the fuel on which a refund is claimed for a
1560 period of time to be determined by the Commissioner. For a refund pursuant to § 58.1-2259.1, the
1561 applicant shall also present a copy of a current Virginia vehicle registration for a hybrid electric motor
1562 vehicle for which the annual license has been paid. The Commissioner, upon the presentation of such
1563 application shall refund to the claimant the proper amount of the tax paid as provided in this chapter,
1564 subject to the provisions of subsection D. A ticket issued to the holder of a credit card as evidence of
1565 the delivery to such holder of tax-paid fuel shall, for the purpose of this section, be a paid ticket or
1566 invoice. Tickets or invoices marked "duplicate" shall not be acceptable.

1567 B. The application for a refund shall be filed within one year from the date of the sale as shown on
1568 the paid ticket or invoice. For those that pay the motor fuels tax in accordance with § 58.1-2200, if the
1569 refund amount certified by the Commissioner is different from the amount requested by the applicant,
1570 the Commissioner shall provide an explanation to the applicant of why the refund amount differs from
1571 the amount requested.

1572 C. In the event an assessment is rendered for failure to report and pay the tax imposed as provided
1573 in § 58.1-2217 or § 58.1-2249 and such fuel is subject to refund under the provisions of § 58.1-2259 or
1574 58.1-2259.1, the application for a refund shall be filed with the Commissioner by the person entitled to
1575 such refund within one year from the date such assessment is paid and shall be accompanied by invoices
1576 covering the sale of the fuel and billing of tax to such person.

1577 D. The Department may make any investigation it considers necessary before refunding the fuels tax
1578 to a person, and may investigate a refund after the refund has been issued and within the time frame for
1579 adjusting tax under this chapter. As a part of such investigation, the Department may require that the
1580 person provide the paid ticket, invoice, or other document from the seller documenting the purchase of
1581 the fuel on which a refund is claimed. Failure to provide a ticket, invoice, or other document evidencing
1582 the purchase of such fuel on which a refund is requested or was previously granted will result in the
1583 denial or reversal of that refund.

1584 E. In accordance with § 58.1-609.1, any person who is refunded tax pursuant to § 58.1-2259 or
1585 58.1-2259.1 shall be subject to the taxes imposed by Chapter 6 (§ 58.1-600 et seq.) of this title, unless
1586 such transaction is specifically exempted pursuant to § 58.1-609.1.

1587 *Article 8.1.*

1588 *Additional Taxes.*

1589 **§ 58.1-2288.1. Additional taxes on fuels.**

1590 A. Beginning January 1, 2016, and thereafter, any licensee or person required to precollect the tax
1591 imposed on fuels under § 58.1-2217 or 58.1-2249 shall also be required to precollect an additional tax,
1592 which is hereby imposed at the rate established in subsection B, on the number of gallons of gasoline,
1593 gasohol, diesel fuel, blended fuel, or alternative fuel for which the licensee or person is precollecting the
1594 tax under such section or sections. The tax imposed under this section shall be in addition to all other
1595 taxes and fees of every kind now imposed by law.

1596 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 statewide 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, inclusive. The period from September 1 through November 30 shall be the base period for determining the cents-per-gallon tax for the immediately following period beginning January 1 and ending March 31, inclusive. The period from December 1 through the last day of February shall be the base period for determining the cents-per-gallon tax for the immediately following period beginning April 1 and ending June 30, inclusive.

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

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

E. This article shall expire on December 31 of any year in which the General Assembly appropriates any of the revenues generated pursuant to this article for any non-transportation-related purpose.

§ 58.1-2289. (Contingent expiration date) 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.

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

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

C. One-half cent (\$0.005) of the tax collected on each gallon of fuel on which a refund has been paid for gasoline, gasohol, diesel fuel, blended fuel, or alternative fuel, for fuel consumed in tractors and unlicensed equipment used for agricultural purposes shall be paid into a special fund of the state treasury, known as the Virginia Agricultural Foundation Fund, to be disbursed to make certain refunds and defray the costs of the research and educational phases of the agricultural program, including supplemental salary payments to certain employees at Virginia Polytechnic Institute and State University,

the Department of Agriculture and Consumer Services and the Virginia Truck and Ornamentals Research Station, including reasonable expenses of the Virginia Agricultural Council.

D. One and one-half cents (\$0.015) of the tax collected on each gallon of fuel used to propel a commercial watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of the state treasury to be made available to the Board of Game and Inland Fisheries until expended for the purposes provided generally in subsection C of § 29.1-701, including acquisition, construction, improvement and maintenance of public boating access areas on the public waters of this Commonwealth and for other activities and purposes of direct benefit and interest to the boating public and for no other purpose. However, one and one-half cents (\$0.015) per gallon on fuel used by commercial fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be used for the construction, repair, improvement and maintenance of the public docks of this 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 of this chapter (§ 58.1-2230 *et seq.*) 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 of revenue generated by a 3.5 percent tax rate imposed pursuant to § 58.1-2288.1 shall be deposited in the Highway Maintenance and Operating Fund and shall be used solely for the maintenance of roads in the secondary state highway system. Such maintenance shall be in order to achieve a minimal level of disparity and shall meet asset management methodology established pursuant to § 33.1-13.03; and

b. The remaining amount of revenue generated by the tax imposed pursuant to § 58.1-2288.1 shall be deposited in the Transportation Trust Fund established pursuant to § 33.1-23.03:1 and used solely for new construction.

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) 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.

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

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

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

D. One and one-half cents (\$0.015) of the tax collected on each gallon of fuel used to propel a commercial watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of the state treasury to be made available to the Board of Game and Inland Fisheries until expended for the purposes provided generally in subsection C of § 29.1-701, including acquisition, construction, improvement and maintenance of public boating access areas on the public waters of this Commonwealth and for other activities and purposes of direct benefit and interest to the boating public and for no other purpose. However, one and one-half cents (\$0.015) per gallon on fuel used by commercial fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be used for the construction, repair, improvement and maintenance of the public docks of this 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 F*, 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. 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 of revenue generated by a 3.5 percent tax rate imposed pursuant to § 58.1-2288.1 shall be deposited in the Highway Maintenance and Operating Fund and shall be used solely for the maintenance of roads in the secondary state highway system. Such maintenance shall be in order to achieve a minimal level of disparity and shall meet asset management methodology established pursuant*

1781 to § 33.1-13.03; and

1782 *b. The remaining amount of revenue generated by the tax imposed pursuant to § 58.1-2288.1 shall be*
1783 *deposited in the Transportation Trust Fund established pursuant to § 33.1-23.03:1 and used solely for*
1784 *new construction.*

1785 *2. For purposes of such deposits pursuant to this subsection, the Commissioner shall provide a*
1786 *monthly certification to the Comptroller reporting the net revenues generated by such tax in the most*
1787 *recently ended month for which such net revenues have been collected. The monthly certification shall*
1788 *be provided to the Comptroller no later than the twenty-fifth of each month. The Comptroller shall*
1789 *deposit an amount equal to each month's net revenues, as reported in the Commissioner's certification,*
1790 *into the funds specified herein no later than the last day of the same month in which the certification*
1791 *was made by the Commissioner.*

1792 **§ 58.1-3510.7. Exemptions; penalties.**

1793 Provisions in §§ 58.1-609.1 through ~~58.1-609.11~~ of Chapter 6 58.1-609.10 relating to exemptions,
1794 §§ 58.1-635 and 58.1-636 relating to penalties, and § 58.1-625 relating to the manner of collecting the
1795 local retail sales and use tax applicable in Chapter 6 (§ 58.1-600 et seq.) ~~of this title~~, shall apply mutatis
1796 mutandis to the short-term rental property tax, except that the commissioner of revenue shall assess the
1797 tax due, and the treasurer or director of finance shall collect the short-term rental property tax, instead of
1798 the Department of Taxation. Any other provision in Chapter 6 shall apply if adopted by local ordinance
1799 pursuant to § 58.1-3510.6.

1800 **§ 58.1-3818. Admissions tax in certain counties.**

1801 A. Fairfax, Arlington, Dinwiddie, Prince George and Brunswick Counties are hereby authorized to
1802 levy a tax on admissions charged for attendance at any event. The tax shall not exceed 10 percent of the
1803 amount of charge for admission to any such event. Notwithstanding any other provisions of law, the
1804 governing bodies of such counties shall prescribe by ordinance the terms, conditions and amount of such
1805 tax and may classify between events conducted for charitable and those conducted for noncharitable
1806 purposes.

1807 B. Notwithstanding the provisions of subsection A, Culpeper County and New Kent County are
1808 hereby authorized to levy a tax on admissions charged for attendance at any event as set forth in
1809 subsection A.

1810 C. Notwithstanding the provisions of subsection A, Charlotte County, Clarke County, Madison
1811 County, Nelson County, and Sussex County are hereby authorized to levy a tax on admissions charged
1812 for attendance at any spectator event; however, a tax shall not be levied on admissions charged to
1813 participants in order to participate in any event. The tax shall not exceed 10 percent of the amount of
1814 charge for admission to any event. Notwithstanding any other provisions of law, the governing body of
1815 such county shall prescribe by ordinance the terms, conditions and amount of such tax and may classify
1816 between the events as set forth in § 58.1-3817.

1817 D. Notwithstanding the provisions of subsections A, B and C, localities may, by ordinance, elect not
1818 to levy an admissions tax on admission to an event, provided that the purpose of the event is solely to
1819 raise money for charitable purposes and that the net proceeds derived from the event will be transferred
1820 to an entity or entities that are exempt from sales and use tax pursuant to ~~§ 58.1-609.11~~ federal income
1821 taxation (i) under § 501(c)(3) of the Internal Revenue Code or (ii) under § 501(c)(4) of the Internal
1822 Revenue Code and, if it is exempt under § 501(c)(4) of the Internal Revenue Code, is organized for a
1823 charitable purpose.

1824 **§ 58.1-3833. County food and beverage tax.**

1825 A. Any county is hereby authorized to levy a tax on food and beverages sold, for human
1826 consumption, by a restaurant, as such term is defined in subdivision 9 of § 35.1-1, not to exceed four
1827 percent of the amount charged for such food and beverages. Such tax shall not be levied on food and
1828 beverages sold through vending machines or by: (i) boardinghouses that do not accommodate transients;
1829 (ii) cafeterias operated by industrial plants for employees only; (iii) restaurants to their employees as part
1830 of their compensation when no charge is made to the employee; (iv) volunteer fire departments and
1831 rescue squads; nonprofit churches or other religious bodies; educational, charitable, fraternal, or
1832 benevolent organizations, on an occasional basis, not exceeding three times per calendar year as a
1833 fundraising activity, the gross proceeds of which are to be used by such church, religious body or
1834 organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes; (v)
1835 churches that serve meals for their members as a regular part of their religious observances; (vi) public
1836 or private elementary or secondary schools, colleges, and universities to their students or employees;
1837 (vii) hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to
1838 patients or residents thereof; (viii) day care centers; (ix) homes for the aged, infirm, handicapped,
1839 battered women, narcotic addicts, or alcoholics; or (x) age-restricted apartment complexes or residences
1840 with restaurants, not open to the public, where meals are served and fees are charged for such food and
1841 beverages and are included in rental fees. Also, the tax shall not be levied on food and beverages: (a)
1842 when used or consumed and paid for by the Commonwealth, any political subdivision of the

Commonwealth, or the United States; or (b) provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, blind, handicapped, or needy persons in their homes, or at central locations; or (c) provided by private establishments that contract with the appropriate agency of the Commonwealth to offer food, food products, or beverages for immediate consumption at concession prices to elderly, infirm, blind, handicapped, or needy persons in their homes or at central locations.

Grocery stores and convenience stores selling prepared foods ready for human consumption at a delicatessen counter shall be subject to the tax, for that portion of the grocery store or convenience store selling such items.

This tax shall be levied only if the tax is approved in a referendum within the county which shall be held in accordance with § 24.2-684 and initiated either by a resolution of the board of supervisors or on the filing of a petition signed by a number of registered voters of the county equal in number to 10 percent of the number of voters registered in the county, as appropriate on January 1 of the year in which the petition is filed with the court of such county. The clerk of the circuit court shall publish notice of the election in a newspaper of general circulation in the county once a week for three consecutive weeks prior to the election. If the voters affirm the levy of a local meals tax, the tax shall be effective in an amount and on such terms as the governing body may by ordinance prescribe. If such resolution of the board of supervisors or such petition states for what projects and/or purposes the revenues collected from the tax are to be used, then the question on the ballot for the referendum shall include language stating for what projects and/or purposes the revenues collected from the tax are to be used.

The term "beverage" as set forth herein shall mean alcoholic beverages as defined in § 4.1-100 and nonalcoholic beverages served as part of a meal. The tax shall be in addition to the sales tax currently imposed by the county pursuant to the authority of Chapter 6 (§ 58.1-600 et seq.) of this title. Collection of such tax shall be in a manner prescribed by the governing body.

B. 1. Notwithstanding the provisions of subsection A of this section, Roanoke County, Rockbridge County, Frederick County, Arlington County, Montgomery County, are hereby authorized to levy a tax on food and beverages sold for human consumption by a restaurant, as such term is defined in § 35.1-1 and as modified in subsection A above and subject to the same exemptions, not to exceed four percent of the amount charged for such food and beverages, provided that the governing body of the respective county holds a public hearing before adopting a local food and beverage tax, and the governing body by unanimous vote adopts such tax by local ordinance. The tax shall be effective in an amount and on such terms as the governing body may by ordinance prescribe.

2. a. Notwithstanding the provisions of subsections A and subdivision 1, Fairfax County, Loudoun County, and Prince William County are hereby authorized to levy a tax on food and beverages sold for human consumption by a restaurant, as such term is defined in § 35.1-1 and as modified in subsection A and subject to the same exemptions, not to exceed four percent of the amount charged for such food and beverages, provided that the governing body of the respective county holds a public hearing before adopting a local food and beverage tax. The tax shall be effective in an amount and on such terms as the governing body may by ordinance prescribe.

b. The revenue generated by any tax imposed pursuant to subdivision a shall be used by the applicable locality solely for construction of roads that will reduce traffic congestion on the highways of the Commonwealth. Prior to construction, the locality shall submit the project to the Commonwealth Transportation Board for approval. The Commonwealth Transportation Board's determination shall be based solely on a reduction in traffic congestion analysis.

C. Nothing herein contained shall affect any authority heretofore granted to any county, city or town to levy a meals tax. The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax levied under this section, mutatis mutandis. All food and beverage tax collections and all meals tax collections shall be deemed to be held in trust for the county, city or town imposing the applicable tax. The wrongful and fraudulent use of such collections other than remittance of the same as provided by law shall constitute embezzlement pursuant to § 18.2-111.

D. No county which has heretofore adopted an ordinance pursuant to subsection A of this section shall be required to submit an amendment to its meals tax ordinance to the voters in a referendum.

E. Notwithstanding any other provision of this section, no locality shall levy any tax under this section upon (i) that portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price; (ii) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price, but only to the extent that such mandatory gratuity or service charge does not exceed 20% of the sales price; or (iii) alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the following items: sandwiches, salad

1904 bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment
1905 of vegetables, and nonfactory sealed beverages.

1906 2. That §§ 58.1-339.11 and 58.1-439.2 of the Code of Virginia are repealed for taxable years
1907 beginning on or after January 1, 2016. Such repeal shall in no way affect any tax credits earned
1908 under § 58.1-339.11 or 58.1-439.2 of the Code of Virginia prior to the repeal, or to the
1909 administration of the same.

1910 3. That Article 20.1 (§§ 58.1-510 through 58.1-513) of Chapter 3 of Title 58.1 of the Code of
1911 Virginia is repealed, and the administration of the same as provided under Article 20.1 is also
1912 repealed. Neither the Tax Commissioner nor the Department of Taxation shall issue any tax
1913 credits pursuant to Article 20.1 on or after January 1, 2016.

1914 4. That §§ 58.1-608.1, 58.1-609.11, and 58.1-611.1 of the Code of Virginia are repealed.

1915 5. That the Texas Transportation Institute's annual report on highway congestion ranks the
1916 Northern Virginia/D.C. area as the worst area for traffic congestion in the nation, ahead of Los
1917 Angeles and New York. Therefore, the General Assembly finds that transportation construction
1918 and maintenance in Northern Virginia is a high priority.

1919 6. That the traffic congestion in Hampton Roads is very bad and getting worse. Moreover, the
1920 transportation needs in Hampton Roads are acute and unique in that the Port of Virginia ("Port")
1921 is located there. The Port is a major economic asset of the entire Commonwealth and its citizens,
1922 and most of the businesses supporting and participating in the Port and Port operations are
1923 located in the greater Hampton Roads region of the Commonwealth. The Port acts as a critical
1924 economic engine for the Commonwealth, spurring job creation and growth, expanding the tax
1925 base, and encouraging corporate investment in the Commonwealth. An efficient, modern, and safe
1926 transportation infrastructure is essential to ensure the continued growth and success of the Port in
1927 order to move cargo to and from the Port. Continued maintenance and improvement of the
1928 unique transportation infrastructure in the greater Hampton Roads region, including numerous
1929 bridges and tunnels, is imperative to maintaining the health, safety, and well-being of the residents
1930 of that region. Therefore, the General Assembly finds that transportation construction and
1931 maintenance in Hampton Roads is a high priority.

1932 7. That the Tax Commissioner shall develop guidelines establishing procedures for the transition to
1933 the repeal of Article 20.1 (§§ 58.1-510 through 58.1-513) of Chapter 3 of Title 58.1 of the Code of
1934 Virginia. Such guidelines shall be exempt from the provisions of the Administrative Process Act
1935 (§ 2.2-4000 et seq. of the Code of Virginia).

1936 8. That any certificate of exemption issued pursuant to § 58.1-609.11 of the Code of Virginia that
1937 is in effect at the time shall expire on January 1, 2016.

1938 9. That each county or city that imposes any of the fees authorized pursuant to (i) subsection K of
1939 § 58.1-605 and subsection H of § 58.1-606 of the Code of Virginia or (ii) subdivision B 2 of §
1940 58.1-3833 of the Code of Virginia shall for each fiscal year in which it imposes such tax expend or
1941 disburse for transportation purposes an amount (computed without regard to any revenues
1942 generated in the fiscal year from such taxes and without regard to any additional revenues
1943 distributed to such county or city) that is at least equal to the total amount expended or disbursed
1944 for transportation purposes by the county or city in its fiscal year that began in calendar year
1945 2015.

1946 10. That the revenues generated by the provisions of this act that increase revenues available for
1947 transportation only in localities in Northern Virginia or Hampton Roads shall not be used to
1948 calculate or reduce the share of local, federal, and state revenues otherwise available to
1949 participating jurisdictions. Further, such revenues and moneys shall not be included in any
1950 computation of, or formula for, a locality's ability to pay for public education, upon which
1951 appropriations of state revenues to local governments for public education are determined.

1952 11. That the revenue generated by this act shall be used solely for transportation purposes.

1953 12. That the provisions of this act that generate additional revenue through state taxes or fees
1954 shall expire on December 31 of any year in which the General Assembly appropriates any of such
1955 revenues for any non-transportation-related purpose. The provisions of this act generating
1956 additional revenue through local taxes or fees shall expire on December 31 of any year in any
1957 locality in which the locality appropriates any such revenues for non-transportation-related
1958 purposes. Further, the additional revenue generated by the provisions of this act through state
1959 taxes or fees that are distributed to localities shall no longer be distributed to any locality,
1960 beginning December 31 of any year in which the locality uses any such revenue for
1961 non-transportation-related purposes.

1962 13. That the counties and cities in Northern Virginia that may receive additional revenues by
1963 virtue of this act shall meet and attempt to agree on whether any or all of such additional revenue
1964 may be better used for regional projects. Any such proposal shall be submitted to the Chairman of
1965 the House Committee on Appropriations and the Chairman of the Senate Committee on Finance.

1966 14. That all provisions of this act, except this enactment, enactment 15, enactment 21, and the
1967 amendments to § 58.1-416 of the Code of Virginia in the first enactment, shall become effective on
1968 January 1, 2016, unless another effective date is explicitly provided. The provisions of this
1969 enactment, enactment 15, and the amendments to § 58.1-416 of the Code of Virginia in the first
1970 enactment shall become effective on January 1, 2014.
1971 15. That should any portion of this act be held unconstitutional by a court of competent
1972 jurisdiction, the remaining portions of this act shall remain in effect.