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HOUSE BILL NO. 2333

Offered January 18, 2013

A *BILL to amend and reenact §§ 15.2-4838.1, 33.1-23.03:2, 33.1-23.03:10, 33.1-23.1, 33.1-221.1:1.3, 58.1-300, 58.1-520, as it is currently effective and as it may become effective, 58.1-604.1, 58.1-608.3, 58.1-611.1, 58.1-614, 58.1-811, 58.1-2217, 58.1-2249, 58.1-2261, 58.1-2289, as it is currently effective and as it may become effective, 58.1-2701, as it is currently effective and as it may become effective, and 58.1-2706 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 15.2-4217.2, 15.2-4838.01, 58.1-604.7, and 58.1-2259.1; by adding in Title 58.1 a chapter numbered 8.1, consisting of a section numbered 58.1-818; and by adding in Title 58.1 a chapter numbered 22.2, consisting of sections numbered 58.1-2299.21 through 58.1-2299.27; and to repeal Article 22 (§§ 58.1-540 through 58.1-549) of Chapter 3 of Title 58.1 of the Code of Virginia and the second enactment of Chapter 822 of the Acts of Assembly of 2009, as amended by Chapter 535 of the Acts of Assembly of 2012, relating to transportation funding and administration.*

Patron—Watts

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-4217.2, 15.2-4838.1, 33.1-23.03:2, 33.1-23.03:10, 33.1-23.1, 58.1-300, 33.1-221.1:1.3, 58.1-520, as it is currently effective and as it may become effective, 58.1-604.1, 58.1-608.3, 58.1-611.1, 58.1-614, 58.1-811, 58.1-2217, 58.1-2249, 58.1-2261, 58.1-2289, as it may become effective, 58.1-2701, as it is currently effective and as it may become effective, of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 15.2-4838.01, 58.1-604.7, and 58.1-2259.1; by adding in Title 58.1 a chapter numbered 8.1, consisting of a section numbered 58.1-818; and by adding in Title 58.1 a chapter numbered 22.2, consisting of sections numbered 58.1-2299.21 through 58.1-2299.27, as follows:

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

A. A planning district commission may create a transportation fund to be used to fund transportation projects located within the boundaries of the planning district, with such projects to be chosen based upon the criteria set forth in this section. The fund shall be created in the state treasury and shall be a special nonreverting fund to be known as the "Transportation Fund of the [fill in the name] Planning District Commission" ("the Fund"). Such Fund shall be established on the books of the Comptroller. All revenues authorized by the General Assembly shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of transportation projects that improve mobility and safety within the boundaries of the planning district for which the Fund is established. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the director or chief executive of the planning district commission.

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

C. In order to be eligible to receive the revenues set forth in subsection B, a planning district commission, or a transportation planning entity of the planning district commission, shall compile a list, in order of priority, of the top 10 transportation-related projects within the planning district for which the transportation fund may be used. Criteria and methodology similar to that set forth in § 33.1-13.03:1 shall be utilized in compiling and prioritizing such list. The list shall be updated at least once every four years for as long as the Fund receives the revenues set forth in subsection B.

D. In order to be eligible to receive the revenues set forth in subsection B, the governing bodies of localities located within the planning district that represent at least 60 percent of the population residing within the planning district shall adopt a resolution supporting the funding of the transportation projects determined pursuant to subsection C through the imposition of the sales and use tax set forth in § 58.1-604.7 and the recordation tax set forth in Chapter 8.1 (§ 58.1-818) of Title 58.1. Such resolution

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59 shall only be voted upon by the governing body of a locality after the locality holds at least one public
60 hearing concerning the imposition of the taxes within the locality.

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

64 **§ 15.2-4838.01. Northern Virginia Transportation Authority Sales and Use Tax Fund established.**

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

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

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

79 **§ 15.2-4838.1. Use of certain revenues by the Authority.**

80 A. 1. All moneys received by the Authority from the taxes and fees imposed pursuant to
81 §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-802.2 and the proceeds of bonds issued pursuant to
82 § 15.2-4839 shall be used by the Authority solely for transportation purposes benefiting those counties
83 and cities that are imposing the real property tax pursuant to § 58.1-3221.3 at a rate of \$0.125 per
84 \$100 of assessed value. All revenue and proceeds of bonds under this subdivision shall be allocated
85 pursuant to the provisions of subsections B and C.

86 2. All other moneys received by the Authority and the proceeds of bonds issued pursuant to
87 § 15.2-4839 supported by such moneys shall be used by the Authority solely for transportation purposes
88 benefiting those counties and cities that are embraced by the Authority. The transportation projects
89 undertaken pursuant to this subdivision shall be as determined by the Authority and not be constrained
90 by the provisions of subsections B and C.

91 B. Forty percent of the revenues under subdivision A 1 shall be distributed on a pro rata basis to
92 each locality that is imposing the real property tax pursuant to § 58.1-3221.3 at a rate of \$0.125 per
93 \$100 of assessed value, with each such locality's share being the total of such fees and taxes assessed or
94 imposed by the Authority and received by the Authority that are generated or attributable to the
95 revenues collected in the locality divided by the total of such fees and taxes assessed or imposed by the
96 Authority and received by the Authority revenues collected in all localities imposing the real property
97 tax pursuant to § 58.1-3221.3 at a rate of \$0.125 per \$100 of assessed value. Of the revenues that may
98 be distributed pursuant to this subsection (i) in the Cities of Alexandria, Fairfax, and Falls Church and
99 the County of Arlington the first 50% shall be used solely for urban or secondary road construction and
100 improvements and for public transportation purposes, and (ii) in the remaining localities, the first 50%
101 shall be used solely for urban or secondary road construction and improvements. The remainder, as
102 determined solely by the applicable locality, shall be used either for additional urban or secondary road
103 construction; for other transportation capital improvements which have been approved by the most recent
104 long range transportation plan adopted by the Authority; or for public transportation purposes. Solely for
105 purposes of calculating the 40% of revenues to be distributed pursuant to this subsection, the revenue
106 generated pursuant to § 58.1-3221.3 and Article 8 (§ 15.2-2317 et seq.) of Chapter 22 of this title by the
107 counties and cities embraced by the Authority shall be considered revenue of the Authority. None of the
108 revenue distributed by this subsection may be used to repay debt issued before July 1, 2007. Each
109 locality shall provide annually to the Northern Virginia Transportation Authority sufficient
110 documentation as required by the Authority showing that the funds distributed under this subsection
111 were used as required by this subsection.

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

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

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

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

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

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

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

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

159 **§ 33.1-23.1. Allocation of funds among highway systems.**

160 A. The Commonwealth Transportation Board shall allocate each year from all funds made available
 161 for highway purposes such amount as it deems reasonable and necessary for the maintenance of roads
 162 within the interstate system of highways, the primary system of state highways, the secondary system of
 163 state highways and for city and town street maintenance payments made pursuant to § 33.1-41.1 and
 164 payments made to counties which have withdrawn or elect to withdraw from the secondary system of
 165 state highways pursuant to § 33.1-23.5:1.

166 B. After funds are set aside for administrative and general expenses and pursuant to other provisions
 167 in this title that provide for the disposition of funds prior to allocation for highway purposes, and after
 168 allocation is made pursuant to subsection A, the Commonwealth Transportation Board shall allocate an
 169 amount determined by the Board, not to exceed \$500 million in any given year, as follows: 25 percent
 170 to bridge reconstruction and rehabilitation; 25 percent to advancing high priority projects statewide; 25
 171 percent to reconstructing deteriorated interstate and primary system pavements determined to have a
 172 Combined Condition Index of less than 60; 15 percent to projects undertaken pursuant to the
 173 Public-Private Transportation Act of 1995 (§ 56-556 et seq.); five percent to paving unpaved roads
 174 carrying more than 200 vehicles per day; and five percent to smart roadway technology, provided that,
 175 at the discretion of the Commonwealth Transportation Board, such percentages of funds may be adjusted
 176 in any given year to meet project cash flow needs or when funds cannot be expended due to legal,
 177 environmental, or other project management considerations and provided that such allocations shall cease
 178 beginning July 1, 2020. After such allocations are made, the Board may allocate each year up to 10
 179 percent of the funds remaining for highway purposes for the undertaking and financing of rail projects
 180 that, in the Board's determination, will result in mitigation of highway congestion. After the foregoing
 181 allocations have been made, the Board shall allocate the remaining funds available for highway

182 purposes, exclusive of federal funds for the interstate system, among the several highway systems for
183 construction first pursuant to §§ 33.1-23.1:1 and 33.1-23.1:2 and then as follows:

184 1. Forty percent of the remaining funds exclusive of federal-aid matching funds for the interstate
185 system shall be allocated to the primary system of state highways, including the arterial network, and in
186 addition, an amount shall be allocated to the primary system as interstate matching funds as provided in
187 subsection B of § 33.1-23.2.

188 2. Thirty percent of the remaining funds exclusive of federal-aid matching funds for the interstate
189 system shall be allocated to urban highways for state aid pursuant to § 33.1-44.

190 3. Thirty percent of the remaining funds exclusive of federal-aid matching funds for the interstate
191 system shall be allocated to the secondary system of state highways.

192 C. In addition, the Commonwealth Transportation Board, from funds appropriated for such purpose
193 in the general appropriation act, shall allocate additional funds to the Cities of Newport News, Norfolk,
194 and Portsmouth and the County of Warren in such manner and apportion such funds among such
195 localities as the Board may determine, unless otherwise provided in the general appropriation act. The
196 localities shall use such funds to address highway maintenance and repair needs created by or associated
197 with port operations in those localities.

198 D. Notwithstanding the foregoing provisions of this section, the General Assembly may, through the
199 general appropriations act, permit the Governor to increase the amounts to be allocated to highway
200 maintenance, highway construction, either or both.

201 E. As used in this section:

202 "Bridge reconstruction and rehabilitation" means reconstruction and rehabilitation of those bridges
203 identified by the Department of Transportation as being functionally obsolete or structurally deficient.

204 "High priority projects" means those projects of regional or statewide significance identified by the
205 Board that reduce congestion, increase safety, create jobs, or increase economic development.

206 "Smart roadway technology" means those projects or programs identified by the Board that reduce
207 congestion, improve mobility, improve safety, provide up-to-date travel data, or improve emergency
208 response.

209 **§ 33.1-221.1:1.3. Intercity Passenger Rail Operating and Capital Fund.**

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

217 B. There is hereby created in the state treasury a special nonreverting fund to be known as the
218 Intercity Passenger Rail Operating and Capital Fund, which shall be considered a special fund within the
219 Transportation Trust Fund. The Intercity Passenger Rail Operating and Capital Fund shall be established
220 on the books of the Comptroller and shall consist of funds as may be set forth in the appropriation act,
221 *revenues generated by subsection B of § 58.1-2249 and designated for the Intercity Passenger Rail*
222 *Operating and Capital Fund pursuant to § 58.1-2289*, and by allocation of funds for operations and
223 projects pursuant to this section by the Commonwealth Transportation Board in accordance with
224 § 33.1-23.1. Interest earned on moneys in the Intercity Passenger Rail Operating and Capital Fund shall
225 remain in the Intercity Passenger Rail Operating and Capital Fund and be credited to it. Any moneys
226 remaining in the Intercity Passenger Rail Operating and Capital Fund, including interest thereon, at the
227 end of each fiscal year shall not revert to the general fund but shall remain in the Intercity Passenger
228 Rail Operating and Capital Fund. Moneys in the Intercity Passenger Rail Operating and Capital Fund
229 shall be used solely as provided in this section. Expenditures and disbursements from the Intercity
230 Passenger Rail Operating and Capital Fund shall be made by the State Treasurer on warrants issued by
231 the Comptroller upon written request signed by the Director of the Virginia Department of Rail and
232 Public Transportation or his designee.

233 C. The Director of the Virginia Department of Rail and Public Transportation or his designee shall
234 administer and expend or commit, subject to the approval of the Commonwealth Transportation Board,
235 the Intercity Passenger Rail Operating and Capital Fund to support the cost of operating intercity
236 passenger rail service; acquiring, leasing, and/or improving railways or railroad equipment, rolling stock,
237 rights-of-way, or facilities; or assisting other appropriate entities to acquire, lease, or improve railways or
238 railroad equipment, rolling stock, rights-of-way, or facilities for intercity passenger rail transportation
239 purposes whenever the Board shall have determined that such acquisition, lease, and/or improvement is
240 for the common good of a region of the Commonwealth or the Commonwealth as a whole. Funds
241 provided in this section may also be used as matching funds for federal grants to support intercity
242 passenger rail projects.

243 D. Capital projects including tracks and facilities constructed and property, equipment, and rolling

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

253 **§ 33.1-23.03:10. Tolls for use of Interstate Highway System components.**

254 A. Notwithstanding any contrary provision of this title and in accordance with all applicable federal
 255 and state statutes and requirements, the Commonwealth Transportation Board may impose and collect
 256 tolls from all classes of vehicles in amounts established by the Board for the use of any component of
 257 the Interstate Highway System within the Commonwealth. However, prior approval of the General
 258 Assembly shall be required prior to the imposition and collection of any toll for use of ~~all or~~ any
 259 ~~portion of Interstate Route 81~~ *existing component of the Interstate Highway System within the*
 260 *Commonwealth.* Such funds so collected shall be deposited into the Transportation Trust Fund
 261 established pursuant to § 33.1-23.03:1, subject to allocation by the Board as provided in this section.

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

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

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

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

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

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

286 **§ 58.1-300. Incomes not subject to local taxation.**

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

290 **§ 58.1-520. (Contingent expiration) Definitions.**

291 As used in this article:

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

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

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

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

304 "Refund" means any individual's Virginia state ~~or local~~ income tax refund payable pursuant to §§

305 58.1-309 and 58.1-546. This term also includes any refund belonging to a debtor resulting from the
 306 filing of a joint income tax return or a refund belonging to a debtor resulting from the filing of a return
 307 where husband and wife have elected to file a combined return and separately state their Virginia
 308 taxable incomes under the provisions of § 58.1-324 B 2.

309 **§ 58.1-520. (Contingent effective date) Definitions.**

310 As used in this article:

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

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

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

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

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

329 **§ 58.1-604.1. Use tax on motor vehicles, machinery, tools and equipment brought into Virginia**
 330 **for use in performing contracts.**

331 In addition to the use tax levied pursuant to § 58.1-604 and notwithstanding the provisions of
 332 § 58.1-611, a use tax is levied upon the storage or use of all motor vehicles, machines, machinery, tools
 333 or other equipment brought, imported or caused to be brought into this Commonwealth for use in
 334 constructing, building or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or
 335 water system, drainage or dredging system, railway system, reservoir or dam, hydraulic or power plant,
 336 transmission line, tower, dock, wharf, excavation, grading, or other improvement or structure, or any
 337 part thereof. The rate of tax is three and one-half percent through midnight on July 31, 2004, and four
 338 percent beginning on and after August 1, 2004, on all tangible personal property except motor vehicles,
 339 which shall be taxed at the rate of three percent; aircraft, which shall be taxed at the rate of two
 340 percent; and watercraft, which shall be taxed at the rate of two percent with a maximum tax of \$1,000.
 341 *However, the total rate of the state use tax in any county or city for which the tax under § 58.1-604.01*
 342 *is imposed shall be 4.5 percent on all tangible personal property except motor vehicles, which shall be*
 343 *taxed at the rate of three percent; aircraft, which shall be taxed at the rate of two percent; and*
 344 *watercraft, which shall be taxed at the rate of two percent with a maximum tax of \$1,000.*

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

351 The tax shall be computed on the basis of such proportion of the original purchase price of such
 352 property as the duration of time of use in this Commonwealth bears to the total useful life thereof. For
 353 purposes of this section, the word "use" means use, storage, consumption and "stand-by" time
 354 occasioned by weather conditions, controversies or other causes. The tax shall be computed upon the
 355 basis of the relative time each item of equipment is in this Commonwealth rather than upon the basis of
 356 actual use. In the absence of satisfactory evidence as to the period of use intended in this
 357 Commonwealth, it will be presumed that such property will remain in this Commonwealth for the
 358 remainder of its useful life, which shall be determined in accordance with the experiences and practices
 359 of the building and construction trades.

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

363 **§ 58.1-604.7. One-half percent sales and use tax in certain planning districts.**

364 *A. In addition to the sales tax imposed pursuant to § 58.1-603, a tax of one-half of one percent is*
 365 *hereby levied and imposed on the property, activities, and services described in § 58.1-603 in the*
 366 *localities located within a planning district that has met the requirements of § 15.2-4217.2, and that*

367 have been specifically authorized by the General Assembly to have the revenues generated by such tax
 368 collected and deposited into the transportation fund established by the planning district commission
 369 pursuant to § 15.2-4217.2 Such tax shall not be levied upon food purchased for human consumption
 370 pursuant to § 58.1-611.1.

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

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

384 D. The taxes under this section shall be subject to all the provisions of this chapter and the rules
 385 and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed on any
 386 tax provided under this section.

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

395

396 **§ 58.1-608.3. Entitlement to certain sales tax revenues.**

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

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

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

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

416 "Public facility" means (i) any auditorium, coliseum, convention center, sports facility that is
 417 designed for use primarily as a baseball stadium for a minor league professional baseball affiliated team
 418 or structures attached thereto, or conference center, which is owned by a Virginia county, city, town,
 419 authority, or other public entity and where exhibits, meetings, conferences, conventions, seminars, or
 420 similar public events may be conducted; (ii) any hotel which is owned by a foundation whose sole
 421 purpose is to benefit a state-supported university and which is attached to and is an integral part of such
 422 facility, together with any lands reasonably necessary for the conduct of the operation of such events;
 423 (iii) any hotel which is attached to and is an integral part of such facility; or (iv) any hotel that is
 424 adjacent to a convention center owned by a public entity and where the hotel owner enters into a
 425 public-private partnership whereby the locality contributes infrastructure, real property, or conference
 426 space. However, such public facility must be located in the City of Hampton, City of Lynchburg, City
 427 of Newport News, City of Norfolk, City of Portsmouth, City of Richmond, City of Roanoke, City of

428 Salem, City of Staunton, City of Suffolk, City of Virginia Beach, or City of Winchester. Any property,
429 real, personal, or mixed, which is necessary or desirable in connection with any such auditorium,
430 coliseum, convention center, baseball stadium or conference center, including, without limitation,
431 facilities for food preparation and serving, parking facilities, and administration offices, is encompassed
432 within this definition. However, structures commonly referred to as "shopping centers" or "malls" shall
433 not constitute a public facility hereunder. A public facility shall not include residential condominiums,
434 townhomes, or other residential units. In addition, only a new public facility, or a public facility which
435 will undergo a substantial and significant renovation or expansion, shall be eligible under subsection C
436 of this section. A new public facility is one whose construction began after December 31, 1991. A
437 substantial and significant renovation entails a project whose cost is at least 50 percent of the original
438 cost of the facility being renovated and shall have begun after December 31, 1991. A substantial and
439 significant expansion entails an increase in floor space of at least 50 percent over that existing in the
440 preexisting facility and shall have begun after December 31, 1991; or an increase in floor space of at
441 least 10 percent over that existing in a public facility that qualified as such under this section and was
442 constructed after December 31, 1991.

443 "Sales tax revenues" means such tax collections realized under the Virginia Retail Sales and Use Tax
444 Act (§ 58.1-600 et seq.) of this title, as limited herein. "Sales tax revenues" does not include the revenue
445 generated by (i) the one-half percent sales and use tax increase enacted by the 1986 Special Session of
446 the General Assembly which shall be paid to the Transportation Trust Fund as defined in § 33.1-23.03:1,
447 ~~nor shall it include~~ (ii) the one percent of the state sales and use tax revenue distributed among the
448 counties and cities of the Commonwealth pursuant to subsection D of § 58.1-638 on the basis of school
449 age population, or (iii) the taxes imposed pursuant to § 58.1-604.7. For a public facility that is a sports
450 facility, "sales tax revenues" shall include such revenues generated by transactions taking place upon the
451 premises of a baseball stadium or structures attached thereto.

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

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

474 C. Any municipality which has issued bonds (i) after December 31, 1991, but before January 1,
475 1996, (ii) on or after January 1, 1998, but before July 1, 1999, (iii) on or after January 1, 1999, but
476 before July 1, 2001, (iv) on or after July 1, 2000, but before July 1, 2003, (v) on or after July 1, 2001,
477 but before July 1, 2005, (vi) on or after July 1, 2004, but before July 1, 2007, (vii) on or after July 1,
478 2009, but before July 1, 2012, or (viii) on or after January 1, 2011, but prior to July 1, 2015, to pay the
479 cost, or portion thereof, of any public facility shall be entitled to all sales tax revenues generated by
480 transactions taking place in such public facility. Such entitlement shall continue for the lifetime of such
481 bonds, which entitlement shall not exceed 35 years, and all such sales tax revenues shall be applied to
482 repayment of the bonds. The State Comptroller shall remit such sales tax revenues to the municipality
483 on a quarterly basis, subject to such reasonable processing delays as may be required by the Department
484 of Taxation to calculate the actual net sales tax revenues derived from the public facility. The State
485 Comptroller shall make such remittances to eligible municipalities, as provided herein, notwithstanding
486 any provisions to the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.). No
487 such remittances shall be made until construction is completed and, in the case of a renovation or
488 expansion, until the governing body of the municipality has certified that the renovation or expansion is
489 completed.

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

495 **§ 58.1-611.1. Rate of tax on sales of food purchased for human consumption.**

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

498 1. From January 1, 2000, ~~through midnight on June 30, 2005,~~ the tax rate on such food shall be
 499 three percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the
 500 revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of
 501 § 58.1-638, (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in
 502 subsections B, C and D of § 58.1-638, and (iii) the revenue from the tax at the rate of one and one-half
 503 percent shall be used for general fund purposes.

504 2. ~~On and after~~ From July 1, 2005, *through midnight on June 30, 2013,* the tax rate on such food
 505 shall be one and one-half percent of the gross sales price. The revenue from the tax shall be distributed
 506 as follows: (i) the revenue from the tax at the rate of one-half percent shall be distributed as provided in
 507 subsection A of § 58.1-638 and (ii) the revenue from the tax at the rate of one percent shall be
 508 distributed as provided in subsections B, C and D of § 58.1-638.

509 3. *On and after July 1, 2013, the tax rate on such food shall be one percent of the gross sales price.*
 510 *The revenue from the tax shall be distributed as provided in subsections B, C, and D of § 58.1-638.*

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

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

524 **§ 58.1-614. Vending machine sales.**

525 A. Notwithstanding the provisions of §§ 58.1-603 and 58.1-604, whenever a dealer makes sales of
 526 tangible personal property through vending machines, or in any other manner making collection of the
 527 tax impractical, as determined by the Tax Commissioner, such dealer shall be required to report his
 528 wholesale purchases for sale at retail from vending machines and shall be required to remit an amount
 529 based on ~~four and one-half percent through midnight on July 31, 2004,~~ and five percent ~~beginning on~~
 530 ~~and after August 1, 2004,~~ of such wholesale purchases. *However, any dealer located in any county or*
 531 *city for which the taxes under § 58.1-604.7 are imposed shall be required to remit an amount based on*
 532 *5.5 percent of such wholesale purchases.*

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

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

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

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

549 **§ 58.1-811. Exemptions.**

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

551 or lease of real estate:

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

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

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

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

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

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

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

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

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

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

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

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

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

592 14. When the grantor is an organization exempt from taxation under § 501(c)(3) of the Internal
593 Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect
594 or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise
595 would be unable to afford to buy a home through conventional means.

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

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

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

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

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

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

607 C. The tax imposed by § 58.1-802 *and the fee imposed by § 58.1-818* shall not apply to any:

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

609 2. Instrument or writing given to secure a debt;

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

612 4. Deed conveying real estate from the United States, the Commonwealth or any county, city, town,

613 district or other political subdivision thereof;

614 5. Conveyance of real estate to the Commonwealth or any county, city, town, district or other
615 political subdivision thereof, if such political unit is required by law to reimburse the parties taxable
616 pursuant to § 58.1-802 *or subject to the fee under § 58.1-818*; or

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

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

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

624 F. The taxes and fees imposed by §§ 58.1-801, 58.1-802, 58.1-818, 58.1-807, 58.1-808, and 58.1-814
625 shall not apply to (i) any deed of gift conveying real estate or any interest therein to The Nature
626 Conservancy or (ii) any lease of real property or any interest therein to The Nature Conservancy, where
627 such deed of gift or lease of real estate is intended to be used exclusively for the purpose of preserving
628 wilderness, natural or open space areas.

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

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

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

638 CHAPTER 8.1.

639 ADDITIONAL RECORDATION TAX.

640 § 58.1-818. *Additional recordation tax.*

641 A. *In addition to the state recordation tax imposed by Chapter 8 (§ 58.1-800 et seq.), there is hereby*
642 *imposed an additional recordation tax, at a rate of 40 cents (\$0.40) on every \$100 or fraction thereof,*
643 *upon the first recordation of each taxable instrument in the localities located within a planning district*
644 *that has met the requirements of § 15.2-4217.2.*

645 B. *All taxes paid to the Commissioner pursuant to this section shall be deposited in the special fund*
646 *titled the "Transportation Fund of the [fill in the name] Planning District Commission." The moneys*
647 *deposited in the special fund shall be distributed monthly to the applicable planning district commission*
648 *to be used in accordance with § 15.2-4217.2. No expenditures from or other uses of the moneys in the*
649 *special fund shall be considered in allocating highway maintenance and construction funds under*
650 *§ 33.1-23.1 or apportioning Transportation Trust Fund funds under § 58.1-638, but shall be in addition*
651 *thereto.*

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

654 § 58.1-2201. **Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

713 "Dyed diesel fuel" means diesel fuel that meets the dyeing and marking requirements of 26 U.S.C.
714 § 4082.

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

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

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

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

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

726 "Fuel" includes motor fuel and alternative fuel.

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

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

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

732 "Gasoline" means (i) all products that are commonly or commercially known or sold as gasoline and
733 are suitable for use as a fuel in a highway vehicle, aircraft, or watercraft, other than products that have
734 an American Society for Testing Materials octane number of less than 75 as determined by the motor
735 method; (ii) a petroleum product component of gasoline, such as naphtha, reformate, or toluene; (iii)

- 736 gasohol; and (iv) fuel grade ethanol. The term does not include aviation gasoline sold for use in an
737 aircraft engine.
- 738 "Governmental entity" means (i) the Commonwealth or any political subdivision thereof or (ii) the
739 United States or its departments, agencies, and instrumentalities.
- 740 "Gross gallons" means an amount of motor fuel measured in gallons, exclusive of any temperature,
741 pressure, or other adjustments.
- 742 "Heating oil" means any combustible liquid, including but not limited to dyed #1 fuel oil, dyed #2
743 fuel oil, and kerosene, that is burned in a boiler, furnace, or stove for heating or for industrial
744 processing purposes.
- 745 "Highway" means every way or place of whatever nature open to the use of the public for purposes
746 of vehicular travel in the Commonwealth, including the streets and alleys in towns and cities.
- 747 "Highway vehicle" means a self-propelled vehicle designed for use on a highway.
- 748 "*Hybrid electric motor vehicle*" means a motor vehicle that uses electricity and another source of
749 motive power.
- 750 "Import" means to bring motor fuel into Virginia by any means of conveyance other than in the fuel
751 supply tank of a highway vehicle. Motor fuel delivered into Virginia from out-of-state by or for the
752 seller constitutes an import by the seller, and motor fuel delivered into Virginia from out-of-state by or
753 for the purchaser constitutes an import by the purchaser.
- 754 "Importer" means a person who obtains motor fuel outside of Virginia and brings that motor fuel
755 into Virginia by any means of conveyance other than in the fuel tank of a highway vehicle. For
756 purposes of this chapter, a motor fuel transporter shall not be considered an importer.
- 757 "In-state-only supplier" means (i) a supplier who is required to have a license and who elects not to
758 collect the tax due the Commonwealth on motor fuel that is removed by that supplier at a terminal
759 located in another state and has Virginia as its destination state or (ii) a supplier who does business only
760 in Virginia.
- 761 "Licensee" means any person licensed by the Commissioner pursuant to Article 2 (§ 58.1-2204 et
762 seq.) of this chapter or § 58.1-2244.
- 763 "Liquid" means any substance that is liquid above its freezing point.
- 764 "Motor fuel" means gasoline, diesel fuel, blended fuel, and aviation fuel.
- 765 "Motor fuel transporter" means a person who transports motor fuel for hire by means of a pipeline, a
766 tank wagon, a transport truck, a railroad tank car, or a marine vessel.
- 767 "Net gallons" means the amount of motor fuel measured in gallons when adjusted to a temperature of
768 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch.
- 769 "Occasional importer" means any person who (i) imports motor fuel by any means outside the
770 terminal transfer system and (ii) is not required to be licensed as a bonded importer.
- 771 "Permissive supplier" means an out-of-state supplier who elects, but is not required, to have a
772 supplier's license under this chapter.
- 773 "Person" means any individual; firm; cooperative; association; corporation; limited liability company;
774 trust; business trust; syndicate; partnership; limited liability partnership; joint venture; receiver; trustee in
775 bankruptcy; club, society or other group or combination acting as a unit; or public body, including but
776 not limited to the Commonwealth, any other state, and any agency, department, institution, political
777 subdivision or instrumentality of the Commonwealth or any other state.
- 778 "Position holder" means a person who holds an inventory position of motor fuel in a terminal, as
779 reflected on the records of the terminal operator. A person holds an "inventory position of motor fuel"
780 when he has a contract with the terminal operator for the use of storage facilities and terminaling
781 services for fuel at the terminal. The term includes a terminal operator who owns fuel in the terminal.
- 782 "Principal" means (i) if a partnership, all its partners; (ii) if a corporation, all its officers, directors,
783 and controlling direct or indirect owners; (iii) if a limited liability company, all its members; and (iv) or
784 an individual.
- 785 "Provider of alternative fuel" means a person who (i) acquires alternative fuel for sale or delivery to
786 a bulk user or a retailer; (ii) maintains storage facilities for alternative fuel, part or all of which the
787 person sells to someone other than a bulk user or a retailer to operate a highway vehicle; (iii) sells
788 alternative fuel and uses part of the fuel acquired for sale to operate a highway vehicle by means of a
789 fuel supply line from the cargo tank of the vehicle to the engine of the vehicle; or (iv) imports
790 alternative fuel into Virginia, by a means other than the usual tank or receptacle connected with the
791 engine of a highway vehicle, for sale or use by that person to operate a highway vehicle.
- 792 "Rack" means a facility that contains a mechanism for delivering motor fuel from a refinery,
793 terminal, or bulk plant into a transport truck, railroad tank car, or other means of transfer that is outside
794 the terminal transfer system.
- 795 "Refiner" means any person who owns, operates, or otherwise controls a refinery.
- 796 "Refinery" means a facility for the manufacture or reprocessing of finished or unfinished petroleum

797 products usable as motor fuel and from which motor fuel may be removed by pipeline or marine vessel
798 or at a rack.

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

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

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

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

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

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

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

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

817 "Terminal transfer system" means a motor fuel distribution system consisting of refineries, pipelines,
818 marine vessels, and terminals, and which is a "bulk transfer/terminal system" under 26 C.F.R. Part
819 48.4081-1.

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

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

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

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

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

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

838 "Watercraft" means any vehicle used on waterways.

839 **§ 58.1-2217. Taxes levied; rate.**

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

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

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

849 B. (Contingent effective date) There is hereby levied a tax *on each gallon of diesel fuel at the rate of*
850 *sixteen 1.5 cents per gallon on diesel fuel (\$0.015) less than the rate in effect in subsection A.*

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

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

858 E. (Contingent expiration date) There is hereby levied a tax at the rate of five cents (\$0.05) per

859 gallon on aviation jet fuel purchased or acquired for use by a user of aviation fuel other than an aviation
 860 consumer. There is hereby levied a tax at the rate of five cents (\$0.05) per gallon upon the first 100,000
 861 gallons of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by any
 862 aviation consumer in any fiscal year. There is hereby levied a tax at the rate of one-half cent (\$0.005)
 863 per gallon on all aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by
 864 an aviation consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not
 865 licensed under this chapter, who uses, acquires for use, sells, or delivers for use in highway vehicles any
 866 aviation jet fuel taxable under this chapter shall be liable for the tax *per gallon* imposed at the rate of
 867 ~~seventeen and one-half cents per gallon~~, *same rate in effect pursuant to subsection A*, along with any
 868 penalties and interest that may accrue.

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

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

882 **§ 58.1-2249. Tax on alternative fuel.**

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

890 A. (Contingent effective date) There is hereby levied a tax at the rate of ~~sixteen~~ 1.5 cents ~~per gallon~~
 891 (\$0.015) *less than the rate in effect pursuant to subsection A of § 58.1-2217* on *each gallon of* liquid
 892 alternative fuel used to operate a highway vehicle by means of a vehicle supply tank that stores fuel
 893 only for the purpose of supplying fuel to operate the vehicle. There is hereby levied a tax at a rate
 894 equivalent to ~~sixteen~~ 1.5 cents ~~per gallon~~ (\$0.015) *less than the rate in effect pursuant to subsection A*
 895 *of § 58.1-2217* on *each gallon of* all other alternative fuel used to operate a highway vehicle. The
 896 Commissioner shall determine the equivalent rate applicable to such other alternative fuels.

897 B. In addition to any tax imposed by this article, there is hereby levied an annual license tax of \$50
 898 \$100 per vehicle on each highway vehicle registered in Virginia that is an electric motor vehicle *or a*
 899 *hybrid electric motor vehicle. Beginning January 1, 2014, and each January 1 thereafter, the amount of*
 900 *the license tax shall be adjusted by the same percentage adjustment to the tax rate pursuant to*
 901 *subsection A of § 58.1-2217. If such a highway vehicle is registered for a period other than one year as*
 902 *provided under § 46.2-646, the license tax shall be multiplied by the number of years or fraction thereof*
 903 *that the vehicle will be registered.*

904 **§ 58.1-2259.1. Refund for hybrid electric motor vehicles.**

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

910 **§ 58.1-2261. Refund procedure; investigations.**

911 A. Any person entitled to a refund pursuant to § 58.1-2259 *or 58.1-2259.1* shall file with the
 912 Commissioner an application on a form prepared and furnished by the Commissioner. Such application
 913 shall contain the information and certifications required by the Commissioner. The applicant shall set
 914 forth the basis for the claimed refund, the total amount of such fuel purchased and used by such
 915 applicant, and how such fuel was used. The applicant shall retain the paid ticket, invoice, or other
 916 document from the seller documenting the purchase of the fuel on which a refund is claimed for a
 917 period of time to be determined by the Commissioner. *For a refund pursuant to § 58.1-2259.1, the*
 918 *applicant shall also present a copy of a current Virginia vehicle registration for a hybrid electric motor*
 919 *vehicle for which the annual license has been paid.* The Commissioner, upon the presentation of such

920 application shall refund to the claimant the proper amount of the tax paid as provided in this chapter,
 921 subject to the provisions of subsection D. A ticket issued to the holder of a credit card as evidence of
 922 the delivery to such holder of tax-paid fuel shall, for the purpose of this section, be a paid ticket or
 923 invoice. Tickets or invoices marked "duplicate" shall not be acceptable.

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

929 C. In the event an assessment is rendered for failure to report and pay the tax imposed as provided
 930 in § 58.1-2217 or § 58.1-2249 and such fuel is subject to refund under the provisions of § 58.1-2259 *or*
 931 *58.1-2259.1*, the application for a refund shall be filed with the Commissioner by the person entitled to
 932 such refund within one year from the date such assessment is paid and shall be accompanied by invoices
 933 covering the sale of the fuel and billing of tax to such person.

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

941 E. In accordance with § 58.1-609.1, any person who is refunded tax pursuant to § 58.1-2259 *or*
 942 *58.1-2259.1* shall be subject to the taxes imposed by Chapter 6 (§ 58.1-600 et seq.) ~~of this title~~, unless
 943 such transaction is specifically exempted pursuant to § 58.1-609.1.

944 *F. Anyone who purchases fuel (i) that is taxed under the provisions of § 58.1-2279, 58.1-2295, or*
 945 *58.1-2299.23 and (ii) upon which a refund is granted for motor fuels taxes paid pursuant to the*
 946 *provisions of § 58.1-2217, may file a claim for refund of taxes paid pursuant to § 58.1-2279, 58.1-2295,*
 947 *or 58.1-2299.23, within 30 days after receipt of a refund under § 58.1-2259 on forms required by the*
 948 *Commissioner and under regulations adopted by the Department.*

949 **§ 58.1-2289. (Contingent expiration date) Disposition of tax revenue generally.**

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

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

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

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

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

982 supplemental salary payments to certain employees at Virginia Polytechnic Institute and State University,
 983 the Department of Agriculture and Consumer Services and the Virginia Truck and Ornamentals Research
 984 Station Hampton Roads Agricultural and Research and Extension Center, including reasonable expenses
 985 of the Virginia Agricultural Council.

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

998 From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for
 999 the propelling of watercraft, after deduction for lawful refunds *and after deduction for the revenues*
 1000 *distributed pursuant to subsection G*, there shall be paid into the state treasury for use by the Marine
 1001 Resources Commission, the Virginia Soil and Water Conservation Board, the State Water Control Board,
 1002 and the Commonwealth Transportation Board to (i) improve the public docks as specified in this section,
 1003 (ii) improve commercial and sports fisheries in Virginia's tidal waters, (iii) make environmental
 1004 improvements including, without limitation, fisheries management and habitat enhancement in the
 1005 Chesapeake and its tributaries, and (iv) further the purposes set forth in § 33.1-223, a sum as established
 1006 by the General Assembly.

1007 E. Notwithstanding other provisions of this section, there shall be transferred from moneys collected
 1008 pursuant to this section to a special fund within the Commonwealth Transportation Fund in the state
 1009 treasury, to be used to meet the necessary expenses of the Department of Motor Vehicles, an amount
 1010 equal to one percent of a sum to be calculated as follows: the tax revenues collected pursuant to this
 1011 chapter, at the tax rates in effect on December 31, 1986, less refunds authorized by this chapter and less
 1012 taxes collected for aviation fuels.

1013 F. The additional revenues, less any additional refunds authorized, generated by increases in the rates
 1014 of taxes under this chapter pursuant to enactments of the 2007 Session of the General Assembly shall be
 1015 collected pursuant to Article 4 ~~of this chapter~~ and deposited into the Highway Maintenance and
 1016 Operating Fund.

1017 G. *The revenues from the license tax imposed pursuant to subsection B of § 58.1-2249 shall be*
 1018 *collected pursuant to Article 4 (§ 58.1-2230 et seq.) and distributed to the Intercity Passenger Rail*
 1019 *Operating and Capital Fund.*

1020 **§ 58.1-2289. (Contingent effective date) Disposition of tax revenue generally.**

1021 A. Unless otherwise provided in this section, all taxes and fees, including civil penalties, collected by
 1022 the Commissioner pursuant to this chapter, less a reasonable amount to be allocated for refunds, shall be
 1023 promptly paid into the state treasury and shall constitute special funds within the Commonwealth
 1024 Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for
 1025 use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds
 1026 shall accrue to these funds. Except as provided in § 33.1-23.03:1, no portion of the revenue derived
 1027 from taxes collected pursuant to §§ 58.1-2217, 58.1-2249, or ~~§~~58.1-2701, and remaining after
 1028 authorized refunds for nonhighway use of fuel, shall be used for any purpose other than the
 1029 construction, reconstruction, or maintenance of the roads and projects comprising the State Highway
 1030 System, the Interstate System, and the secondary system of state highways and expenditures directly and
 1031 necessarily required for such purposes, including the retirement of revenue bonds.

1032 Revenues collected under this chapter may be also used for (i) contributions toward the construction,
 1033 reconstruction, or maintenance of streets in cities and towns of such sums as may be provided by law
 1034 and (ii) expenditures for the operation and maintenance of the Department of Transportation, the
 1035 Department of Rail and Public Transportation, the Department of Aviation, the Virginia Port Authority,
 1036 and the Department of Motor Vehicles as may be provided by law.

1037 The Governor is hereby authorized to transfer out of such fund an amount necessary for the
 1038 inspection of gasoline and motor grease measuring and distributing equipment, and for the inspection
 1039 and analysis of gasoline for purity.

1040 B. ~~The~~ *Except as provided in subsection F*, the tax collected on each gallon of aviation fuel sold and
 1041 delivered or used in ~~this~~ *the* Commonwealth, less refunds, shall be paid into a special fund of the state
 1042 treasury. Proceeds of this special fund within the Commonwealth Transportation Fund shall be disbursed

1043 upon order of the Department of Aviation, on warrants of the Comptroller, to defray the cost of the
 1044 administration of the laws of ~~this~~ *the* Commonwealth relating to aviation, for the construction,
 1045 maintenance, and improvement of airports and landing fields to which the public now has or which it is
 1046 proposed shall have access, and for the promotion of aviation in the interest of operators and the public
 1047 generally.

1048 C. One-half cent (*\$0.005*) of the tax collected on each gallon of fuel on which the refund has been
 1049 paid at the rate of ~~seventeen cents per gallon, or in the case of diesel fuel, fifteen and one-half cents per~~
 1050 ~~gallon, in effect pursuant to subsection A of § 58.1-2217 for each gallon of fuel consumed in tractors~~
 1051 and unlicensed equipment used for agricultural purposes shall be paid into a special fund of the state
 1052 treasury, known as the Virginia Agricultural Foundation Fund, to be disbursed to make certain refunds
 1053 and defray the costs of the research and educational phases of the agricultural program, including
 1054 supplemental salary payments to certain employees at Virginia Polytechnic Institute and State University,
 1055 the Department of Agriculture and Consumer Services, and the ~~Virginia Truck and Ornamentals~~
 1056 ~~Research Station Hampton Roads Agricultural Research and Extension Center~~, including reasonable
 1057 expenses of the Virginia Agricultural Council.

1058 D. One and one-half cents (*\$0.015*) of the tax collected on each gallon of fuel used to propel a
 1059 commercial watercraft upon which a refund has been paid shall be paid to the credit of the Game
 1060 Protection Fund of the state treasury to be made available to the Board of Game and Inland Fisheries
 1061 until expended for the purposes provided generally in subsection C of § 29.1-701, including acquisition,
 1062 construction, improvement, and maintenance of public boating access areas on the public waters of ~~this~~
 1063 *the* Commonwealth and for other activities and purposes of direct benefit and interest to the boating
 1064 public and for no other purpose. However, ~~one and one-half~~ *1.5* cents (*\$0.015*) per gallon on fuel used
 1065 by commercial fishing, oystering, clamming, and crabbing boats shall be paid to the Department of
 1066 Transportation to be used for the construction, repair, improvement, and maintenance of the public docks
 1067 of ~~this~~ *the* Commonwealth used by said commercial watercraft. Any expenditures for the acquisition,
 1068 construction, improvement, and maintenance of the public docks shall be made according to a plan
 1069 developed by the Virginia Marine Resources Commission.

1070 From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for
 1071 the propelling of watercraft, after deduction for lawful refunds *and after deduction for the revenues*
 1072 *distributed pursuant to subsection F*, there shall be paid into the state treasury for use by the Marine
 1073 Resources Commission, the Virginia Soil and Water Conservation Board, the State Water Control Board,
 1074 and the Commonwealth Transportation Board to (i) improve the public docks as specified in this section,
 1075 (ii) improve commercial and sports fisheries in Virginia's tidal waters, (iii) make environmental
 1076 improvements including, without limitation, fisheries management and habitat enhancement in the
 1077 Chesapeake and its tributaries, and (iv) further the purposes set forth in § 33.1-223, a sum as established
 1078 by the General Assembly.

1079 E. Notwithstanding other provisions of this section, there shall be transferred from moneys collected
 1080 pursuant to this section to a special fund within the Commonwealth Transportation Fund in the state
 1081 treasury, to be used to meet the necessary expenses of the Department of Motor Vehicles, an amount
 1082 equal to one percent of a sum to be calculated as follows: the tax revenues collected pursuant to this
 1083 chapter, at the tax rates in effect on December 31, 1986, less refunds authorized by this chapter and less
 1084 taxes collected for aviation fuels.

1085 F. *The revenues from the license tax imposed pursuant to subsection B of § 58.1-2249 shall be*
 1086 *collected pursuant to Article 4 (§ 58.1-2230 et seq.) and distributed to the Intercity Passenger Rail*
 1087 *Operating and Capital Fund.*

1088 **CHAPTER 22.2.**

1089 **TRANSPORTATION INFRASTRUCTURE USER FEE.**

1090 **§ 58.1-2299.21. Definitions.**

1091 *As used in this chapter, unless the context requires a different meaning:*

1092 "*Distributor*" means (i) any person engaged in the business of selling fuels in the Commonwealth
 1093 who brings or causes to be brought into the Commonwealth from outside the Commonwealth any fuels
 1094 for sale or any other person engaged in the business of selling fuels in the Commonwealth; (ii) any
 1095 person who makes, manufactures, fabricates, processes, or stores fuels in the Commonwealth for sale in
 1096 the Commonwealth; or (iii) any person engaged in the business of selling fuels outside the
 1097 Commonwealth who ships or transports fuels to any person in the business of selling fuels in the
 1098 Commonwealth.

1099 "*Fuel*" means any fuel subject to tax under Chapter 22 (§ 58.1-2200 et seq.).

1100 "*Person*" means any individual, corporation, partnership, association, company, business, trust, joint
 1101 venture, or other legal entity.

1102 "*Retail dealer*" means any person who sells fuels to a consumer or to any person for any purpose
 1103 other than resale.

1104 **§ 58.1-2299.22. Rules and regulations.**

1105 The Tax Commissioner shall promulgate rules and regulations for the registration of distributors and
1106 dealers and the procedures for filing returns for the payment of the fee imposed pursuant to this
1107 chapter.

1108 **§ 58.1-2299.23. Fee on fuels sold in the Commonwealth.**

1109 A. In addition to all other taxes and fees now imposed by law, there is hereby imposed a
1110 transportation infrastructure user fee upon every distributor who engages in the business of selling fuels
1111 at wholesale to retail dealers for retail sale in the Commonwealth.

1112 The fee shall be imposed on the sales price charged by a distributor for fuels sold to a retail dealer
1113 for retail sale in the Commonwealth at a rate of five percent. Such fee shall be imposed at the time of
1114 the sale by the distributor to the retail dealer. The fee imposed by this chapter shall be paid by the
1115 distributor, but the distributor shall separately state the amount of the fee and add such fee to the sales
1116 price or charge. Thereafter, such fee shall be a debt from the retail dealer until paid and shall be
1117 recoverable at law in the same manner as other debts.

1118 B. Every distributor collecting the fee imposed under this chapter shall file a monthly return no later
1119 than the twentieth of each month, on a form prescribed by the Department, covering the sale of fuels by
1120 such distributor during the preceding month for which a fee is imposed pursuant to subsection A.

1121 For purposes of compensating a distributor for accounting for and remitting the fee imposed by this
1122 chapter, such distributor shall be allowed to deduct two percent of the fee otherwise due in submitting
1123 his return and paying the amount due by him if the amount is not delinquent at the time of payment.

1124 **§ 58.1-2299.24. Exclusion from professional license tax.**

1125 The amount of the fee imposed by this chapter and collected by a distributor in any taxable year
1126 shall be excluded from gross receipts for purposes of any tax imposed under Chapter 37 (§ 58.1-3700 et
1127 seq.).

1128 **§ 58.1-2299.25. Disposition of fees.**

1129 All fees paid to the Commissioner pursuant to this chapter, after subtraction of the direct costs of
1130 administration by the Department, shall be allocated among special subfunds of the Highway
1131 Maintenance and Operating Fund entitled "Special Fund Account of the Highway Construction District
1132 of" according to the highway construction district in which the fuel is sold by the distributor
1133 to the retail dealer. The amounts deposited in the special funds shall be used solely for highway and
1134 road maintenance in the applicable highway construction district.

1135 **§ 58.1-2299.26. Disclosure of information; penalties.**

1136 For purposes of administering the fee levied under this chapter, the Commissioner, upon written
1137 request, is authorized to provide to the finance officer of any city or county who is charged with
1138 administering the fee such information as may be necessary for the performance of official duties. Any
1139 person to whom information is provided pursuant to this section shall be subject to the prohibitions and
1140 penalties prescribed in § 58.1-3.

1141 **§ 58.1-2299.27. Contingent expiration.**

1142 This article shall expire on December 31 of any year in which the General Assembly appropriates
1143 any of the revenues generated pursuant to this article for any non-transportation-related purpose.

1144 **§ 58.1-2701. (Contingent expiration date) Amount of tax.**

1145 A. Except as provided in subsection B, every motor carrier shall pay a road tax equivalent to \$0.24
1146 \$0.035 more per gallon than the rate in effect pursuant to subsection A of § 58.1-2217, calculated on the
1147 amount of motor fuel, diesel fuel, or liquefied gases (which would not exist as liquids at a temperature
1148 of ~~sixty~~ 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute), used in its
1149 operations within the Commonwealth.

1150 The tax imposed by this chapter shall be in addition to all other taxes of whatever character imposed
1151 on a motor carrier by any other provision of law.

1152 B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles
1153 that are not registered under the International Registration Plan shall pay a fee of \$150 per year for each
1154 qualified highway vehicle regardless of whether such vehicle will be included on the motor carrier's
1155 IFTA return. The fee is due and payable when the vehicle registration fees are paid pursuant to the
1156 provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2. Beginning January 1, 2014, and
1157 each January 1 thereafter, the amount of the fee under this subsection shall be adjusted by the same
1158 percentage of the tax rate adjustment pursuant to subsection A of § 58.1-2217.

1159 If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due
1160 at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration
1161 expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the
1162 registration fee paid is authorized by law.

1163 C. All taxes and fees paid under the provisions of this chapter shall be credited to the Highway
1164 Maintenance and Operating Fund, a special fund within the Commonwealth Transportation Fund.

1165 **§ 58.1-2701. (Contingent effective date) Amount of tax.**

1166 A. Except as provided in subsection B, every motor carrier shall pay a road tax equivalent to
 1167 ~~nineteen and one-half~~ *two cents (\$0.02) more per gallon than the rate in effect pursuant to subsection A*
 1168 *of § 58.1-2217, calculated on the amount of motor fuel, diesel fuel, or liquefied gases (which would not*
 1169 *exist as liquids at a temperature of ~~sixty~~ 60 degrees Fahrenheit and a pressure of 14.7 pounds per square*
 1170 *inch absolute); used in its operations within the Commonwealth.*

1171 The tax imposed by this chapter shall be in addition to all other taxes of whatever character imposed
 1172 on a motor carrier by any other provision of law.

1173 B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles
 1174 that are not registered under the International Registration Plan shall pay a fee of \$100 per year for each
 1175 qualified highway vehicle, regardless of whether such vehicle will be included on the motor carrier's
 1176 IFTA return. The fee is due and payable when the vehicle registration fees are paid pursuant to the
 1177 provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2. *Beginning January 1, 2014, and*
 1178 *each January 1 thereafter, the amount of the fee under this subsection shall be adjusted by the same*
 1179 *percentage adjustment to the tax rate pursuant to subsection A of § 58.1-2217.*

1180 If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due
 1181 at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration
 1182 expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the
 1183 registration fee paid is authorized by law.

1184 C. All taxes and fees paid under the provisions of this chapter shall be credited to the Highway
 1185 Maintenance and Operating Fund, a special fund within the Commonwealth Transportation Fund.

1186 **§ 58.1-2706. Credit for payment of motor fuel, diesel fuel, or liquefied gases tax.**

1187 A. Every motor carrier subject to the road tax shall be entitled to a credit on such tax equivalent to
 1188 ~~seventeen and one-half cents per gallon~~ *the rate in effect pursuant to subsection A of § 58.1-2217 on*
 1189 *each gallon of all motor fuel, diesel fuel, and liquefied gases purchased by such carrier within the*
 1190 *Commonwealth for use in its operations either within or without the Commonwealth and upon which the*
 1191 *motor fuel, diesel fuel, or liquefied gases tax imposed by the laws of the Commonwealth has been paid*
 1192 *by such carrier. Evidence of the payment of such tax in such form as may be required by, or is*
 1193 *satisfactory to, the Department shall be furnished by each carrier claiming the credit herein allowed.*

1194 B. When the amount of the credit to which any motor carrier is entitled for any quarter exceeds the
 1195 amount of the tax for which such carrier is liable for the same quarter, the excess may: (i) be allowed as
 1196 a credit on the tax for which such carrier would be otherwise liable for any of the eight succeeding
 1197 quarters or (ii) be refunded, upon application, duly verified and presented and supported by such
 1198 evidence as may be satisfactory to the Department.

1199 C. The Department may allow a refund upon receipt of proper application and review. It shall be at
 1200 the discretion of the Department to determine whether an audit is required.

1201 D. The refund may be allowed without a formal hearing if the amount of refund is agreed to by the
 1202 applicant. Otherwise, a formal hearing on the application shall be held by the Department after notice of
 1203 not less than ~~ten~~ 10 days to the applicant and the Attorney General.

1204 E. Whenever any refund is ordered it shall be paid out of the Highway Maintenance and
 1205 Construction Fund.

1206 F. Whenever a person operating under lease to a motor carrier to perform transport services on
 1207 behalf of the carrier purchases motor fuel, diesel fuel, or liquefied gases relating to such services, such
 1208 payments or purchases may, at the discretion of the Department, be considered payment or purchases by
 1209 the carrier.

1210 **2. That Article 22 (§§ 58.1-540 through 58.1-549) of Chapter 3 of Title 58.1 of the Code of**
 1211 **Virginia and the second enactment of Chapter 822 of the Acts of Assembly of 2009, as amended**
 1212 **by Chapter 535 of the Acts of Assembly of 2012, are repealed.**

1213 **3. That the Northern Virginia Transportation Authority and the counties and cities embraced by**
 1214 **the Authority shall work cooperatively with towns with a population greater than 3,500 located**
 1215 **within such counties for purposes of implementing the provisions of this act.**

1216 **4. That all additional net revenues collected by virtue of the provisions in § 58.1-2299.23 of the**
 1217 **Code of Virginia in the first enactment of this act shall be used solely for highway maintenance.**

1218 **5. That the revenues generated by the provisions of this act shall not be used to calculate or**
 1219 **reduce the share of local, federal, or state revenues otherwise available to participating**
 1220 **jurisdictions. Further, such revenues and moneys shall not be included in any computation of, or**
 1221 **formula for, a locality's ability to pay for public education, upon which appropriations of state**
 1222 **revenues to local governments for public education are determined.**

1223 **6. That any locality in Northern Virginia that is receiving revenue from the taxes imposed**
 1224 **pursuant § 58.1-818, 58.1-604.01, or 58.1-3221.3, shall create a separate, special fund in which such**
 1225 **revenues shall be deposited.**

1226 **7. That this act shall be known as the "Comprehensive Transportation and Job Creation Act of**
 1227 **2013."**

1228 8. That should any portion of this act be held unconstitutional by a court of competent
1229 jurisdiction, the remaining portions of this act shall remain in effect.

INTRODUCED

HB2333