

VIRGINIA ACTS OF ASSEMBLY -- 2015 SESSION

CHAPTER 684

An Act to amend and reenact §§ 33.2-200, 33.2-214, 33.2-214.1, 33.2-221, 33.2-228, 33.2-232, 33.2-318, 33.2-319, 33.2-328, 33.2-331, 33.2-337, 33.2-338, 33.2-349, 33.2-352, 33.2-357 through 33.2-360, 33.2-363, 33.2-365, 33.2-366, 33.2-1501, 33.2-1502, 33.2-1503, 33.2-1505, 33.2-1510, 33.2-1526, 33.2-1529, 33.2-1530, 33.2-1531, 33.2-2400, 58.1-638, 58.1-815.4, 58.1-1741, and 58.1-2289 of the Code of Virginia; to amend the Code of Virginia by adding in Article 5 of Chapter 3 of Title 33.2 sections numbered 33.2-369, 33.2-370, and 33.2-371 and by adding in Article 5 of Chapter 15 of Title 33.2 a section numbered 33.2-1529.1; and to repeal §§ 33.2-348, 33.2-361, 33.2-362, and 33.2-364 and Article 2 (§ 33.2-1508) of Chapter 15 of Title 33.2 of the Code of Virginia, relating to the Commonwealth Transportation Board and transportation funding.

[H 1887]

Approved March 27, 2015

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.2-200, 33.2-214, 33.2-214.1, 33.2-221, 33.2-228, 33.2-232, 33.2-318, 33.2-319, 33.2-328, 33.2-331, 33.2-337, 33.2-338, 33.2-349, 33.2-352, 33.2-357 through 33.2-360, 33.2-363, 33.2-365, 33.2-366, 33.2-1501, 33.2-1502, 33.2-1503, 33.2-1505, 33.2-1510, 33.2-1526, 33.2-1529, 33.2-1530, 33.2-1531, 33.2-2400, 58.1-638, 58.1-815.4, 58.1-1741, and 58.1-2289 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 5 of Chapter 3 of Title 33.2 sections numbered 33.2-369, 33.2-370, and 33.2-371 and by adding in Article 5 of Chapter 15 of Title 33.2 a section numbered 33.2-1529.1 as follows:

§ 33.2-200. Commonwealth Transportation Board; membership; terms; vacancies.

The Board shall have a total membership of ~~four~~ 17 members that shall consist of 14 nonlegislative citizen members and ~~three~~ ex officio members as follows: the Secretary of Transportation, the Commissioner of Highways, *and* the Director of the Department of Rail and Public Transportation, ~~and the Executive Director of the Virginia Port Authority~~. The nonlegislative citizen members shall be appointed by the Governor as provided in § 33.2-201, subject to confirmation by the General Assembly; ~~and shall serve at the pleasure of the Governor~~. Appointments of nonlegislative citizen members shall be for terms of four years commencing on July 1, upon the expiration of the terms of the existing members, respectively. Vacancies shall be filled by appointment by the Governor for the unexpired term and shall be effective until 30 days after the next meeting of the ensuing General Assembly and, if confirmed, thereafter for the remainder of the term. No nonlegislative citizen member shall be eligible to serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining that member's eligibility for reappointment. Ex officio members of the Board shall serve terms coincident with their terms of office.

The Secretary shall serve as chairman of the Board and shall have voting privileges only in the event of a tie. ~~The Commissioner of Highways~~ *senior nonlegislative citizen member* shall serve as vice-chairman of the Board ~~and shall have voting privileges only in the event of a tie when he is presiding~~ *and shall preside* during the absence of the chairman. *In the event that more than one nonlegislative citizen member of the Board may be considered the senior nonlegislative citizen member, the Board shall elect the vice-chairman from such senior nonlegislative citizen members.* The Director of the Department of Rail and Public Transportation and the ~~Executive Director of the Virginia Port Authority~~ *Commissioner of Highways* shall not have voting privileges.

§ 33.2-214. Transportation; Six-Year Improvement Program.

A. The Board shall have the power and duty to monitor and, where necessary, approve actions taken by the Department of Rail and Public Transportation pursuant to Article 5 (§ 33.2-281 et seq.) in order to ensure the efficient and economical development of public transportation, the enhancement of rail transportation, and the coordination of such rail and public transportation plans with highway programs.

B. The Board shall have the power and duty to coordinate the planning for financing of transportation needs, including needs for highways, railways, seaports, airports, and public transportation and set aside funds as provided in § 33.2-1524. To allocate funds for these needs pursuant to §§ 33.2-358 and 58.1-638, the Board shall adopt a Six-Year Improvement Program of anticipated projects and programs by July 1 of each year. This program shall be based on the most recent official Transportation Trust Fund revenue forecast and shall be consistent with a debt management policy adopted by the Board in consultation with the Debt Capacity Advisory Committee and the Department of the Treasury.

C. The Board shall have the power and duty to enter into contracts with local districts, commissions, agencies, or other entities created for transportation purposes.

D. The Board shall have the power and duty to promote increasing private investment in the

Commonwealth's transportation infrastructure, including acquisition of causeways, bridges, tunnels, highways, and other transportation facilities.

E. The Board shall have the power and duty to integrate land use with transportation planning and programming, consistent with the efficient and economical use of public funds. If the Board determines that a local transportation plan described in § 15.2-2223 or any amendment as described in § 15.2-2229 or a metropolitan regional long-range transportation plan or regional Transportation Improvement Program as described in § 33.2-3201 is not consistent with the Board's Statewide Transportation Plan developed pursuant to § 33.2-353, the Six-Year Improvement Program adopted pursuant to subsection B, and the location of routes to be followed by roads comprising systems of state highways pursuant to subsection A of § 33.2-208, the Board shall notify the locality of such inconsistency and request that the applicable plan or program be amended accordingly. If, after a reasonable time, the Board determines that there is a refusal to amend the plan or program, then the Board may reallocate funds that were allocated to the nonconforming project as permitted by state or federal law. However, the Board shall not reallocate any funds allocated pursuant to § 33.2-319, ~~33.2-348, 33.2-362,~~ or 33.2-366, based on a determination of inconsistency with the Board's Statewide Transportation Plan or the Six-Year Improvement Program nor shall the Board reallocate any funds, allocated pursuant to ~~subdivision C 3 of subsection C or D of~~ § 33.2-358, from any projects on highways controlled by any county that has withdrawn, or elects to withdraw, from the secondary system of state highways based on a determination of inconsistency with the Board's Statewide Transportation Plan or the Six-Year Improvement Program. If a locality or metropolitan planning organization requests the termination of a project, and the Department does not agree to the termination, or if a locality or metropolitan planning organization does not advance a project to the next phase of construction when requested by the Board and the Department has expended state or federal funds, the locality or the localities within the metropolitan planning organization may be required to reimburse the Department for all funds expended on the project. If, after design approval by the Chief Engineer of the Department, a locality or metropolitan planning organization requests alterations to a project that, in the aggregate, exceeds 10 percent of the total project costs, the locality or the localities within the metropolitan planning organization may be required to reimburse the Department for the additional project costs above the original estimates for making such alterations.

§ 33.2-214.1. Statewide prioritization process for project selection.

A. The General Assembly declares it to be in the public interest that a prioritization process for projects funded by the Commonwealth Transportation Board be developed and implemented to improve the efficiency and effectiveness of the state's transportation system, transportation safety, transportation accessibility for people and freight, environmental quality, and economic development in the Commonwealth.

B. Subject to the limitations in subsection C, the Commonwealth Transportation Board shall develop, in accordance with federal transportation requirements, and in cooperation with metropolitan planning organizations wholly within the Commonwealth and with the Northern Virginia Transportation Authority, a statewide prioritization process for the use of funds allocated pursuant to §§ 33.2-358, 33.2-370, and 33.2-371 or apportioned pursuant to 23 U.S.C. § 104. Such prioritization process shall be used for the development of the Six-Year Improvement Program pursuant to § 33.2-214 and shall consider, at a minimum, highway, transit, rail, roadway, technology operational improvements, and transportation demand management strategies.

1. The prioritization process shall be based on an objective and quantifiable analysis that considers, at a minimum, the following factors relative to the cost of the project or strategy: congestion mitigation, economic development, accessibility, safety, and environmental quality.

2. Prior to the analysis in subdivision 1, candidate projects and strategies shall be screened by the Commonwealth Transportation Board to determine whether they are consistent with the assessment of capacity needs for all for corridors of statewide significance, regional networks, and improvements to promote urban development areas established pursuant to § 15.2-2223.1, undertaken in the Statewide Transportation Plan in accordance with § 33.2-353.

3. The Commonwealth Transportation Board shall weight the factors used in subdivision 1 for each of the state's highway construction districts. The Commonwealth Transportation Board may assign different weights to the factors, within each highway construction district, based on the unique needs and qualities of each highway construction district.

4. The Commonwealth Transportation Board shall solicit input from localities, metropolitan planning organizations, transit authorities, transportation authorities, and other stakeholders in its development of the prioritization process pursuant to this section. Further, the Board shall explicitly consider input provided by an applicable metropolitan planning organization or the Northern Virginia Transportation Authority when developing the weighting of factors pursuant to subdivision 3 for a metropolitan planning area with a population over 200,000 individuals.

C. The prioritization process developed under subsection B shall not apply to the following: projects or activities undertaken pursuant to § 33.2-352; projects funded by the Congestion Mitigation Air Quality funds apportioned to the state pursuant to 23 U.S.C. § 104(b)(4) and state matching funds;

projects funded by the Highway Safety Improvement Program funds apportioned to the state pursuant to 23 U.S.C. § 104(b)(3) and state matching funds; projects funded by the Transportation Alternatives funds set-aside pursuant to 23 U.S.C. § 213 and state matching funds; ~~projects funded pursuant to subdivisions C 2 and 3 of § 33.2-358~~; projects funded by the revenue-sharing program pursuant to § 33.2-357; and projects funded by federal programs established by the federal government after June 30, 2014, with specific rules that restrict the types of projects that may be funded, excluding restrictions on the location of projects with regard to highway functional classification. The Commonwealth Transportation Board may, at its discretion, develop a prioritization process for any of the funds covered by this subsection, subject to planning and funding requirements of federal law. ~~However, the Board shall defer to individual local governments for projects funded pursuant to subdivisions C 2 and 3 of § 33.2-358.~~

D. The Commonwealth Transportation Board shall make public, in an accessible format, the results of the screening and analysis of candidate projects and strategies under subsection B, including the weighting of factors, in a timely fashion.

§ 33.2-221. Other powers, duties, and responsibilities.

A. The Board shall have the power and duty to comply fully with the provisions of the present or future federal aid acts. The Board may enter into all contracts or agreements with the United States government and may do all other things necessary to carry out fully the cooperation contemplated and provided for by present or future acts of Congress related to transportation.

B. The Board shall have the power and duty to enter into all contracts with other states necessary for the proper coordination of the location, construction, maintenance, improvement, and operation of transportation systems, including the systems of state highways with the highways of such other states, and where necessary, seek the approval of such contracts by the Congress of the United States.

C. The Board shall have the power and duty to administer, distribute, and allocate funds in the Transportation Trust Fund as provided by law. The Board shall ensure that the total funds allocated to any highway construction project are equal to total expenditures within 12 months following completion of the project. ~~However, this requirement shall not apply to debt service apportionments pursuant to § 33.2-362 or 33.2-364.~~

D. The Board shall have the power and duty, with the advice of the Secretary of Finance and the State Treasurer, to engage a financial advisor and investment advisor who may be anyone within or without the government of the Commonwealth to assist in planning and making decisions concerning the investment of funds and the use of bonds for transportation purposes. The work of these advisors shall be coordinated with the Secretary of Finance and the State Treasurer.

E. The Board shall have the power and duty to enter into payment agreements with the Treasury Board related to payments on bonds issued by the Commonwealth Transportation Board.

F. When the traffic-carrying capacity of any of the systems of state highways or a portion thereof is increased by construction or improvement, the Board may enter into agreements with localities, authorities, and transportation districts to establish highway user fees for such system of state highways or portion thereof that the localities, authorities, and transportation districts maintain.

§ 33.2-228. Agreements between Commissioner of Highways and certain localities.

Notwithstanding the provisions of §§ 33.2-209, 33.2-214, ~~and 33.2-221, and 33.2-362~~, the Commissioner of Highways, pursuant to a resolution adopted by the Board and following receipt of a resolution adopted by the governing body of a ~~city or town to which funds are apportioned pursuant to § 33.2-362~~ ~~locality~~, may enter into an agreement with any such ~~city or town locality~~ pursuant to which the ~~city or town locality~~ assumes responsibility for the design, right-of-way acquisition, and construction of ~~urban system~~ highways or portions thereof in such ~~city or town locality~~, using funds allocated pursuant to ~~subdivision C 2 of § 33.2-358~~ § 33.2-371.

§ 33.2-232. Annual report by Commissioner of Highways.

The Commissioner of Highways shall annually report in writing to the Governor ~~and, the General Assembly, the Joint Legislative Audit and Review Commission, and the Board~~ no later than November 30 each year, on (i) the condition and performance of the existing transportation infrastructure, using an asset management methodology and generally accepted engineering principles and business practices to identify and prioritize maintenance and operations needs and to identify performance standards to be used to determine those needs, and funding required to meet those needs; (ii) the Department's strategies for improving safety and security, increasing efficiency in agency programs and projects, and collaborating with the private sector and local government in the delivery of services; (iii) the operating and financial activities of the Department, including the construction and maintenance programs, transportation costs and revenue, and federal allocations; (iv) the use of funds in the Innovation and Technology Transportation Fund established pursuant to ~~§ 33.2-1531~~; and (v) other such matters of importance to transportation in the Commonwealth. *The content of such report shall be specified by the Board and shall contain, at a minimum:*

1. *The condition of existing transportation assets, using asset management methodology pursuant to § 33.2-352;*

2. *The methodology used to determine maintenance needs, including an explanation of the transparent methodology used for the allocation of funds from the Highway Maintenance and Operating*

Fund pursuant to subsection A of § 33.2-352;

3. *Beginning with the November 2015 report through the November 2019 report, the allocations to the reconstruction and rehabilitation of functionally obsolete or structurally deficient bridges and to the reconstruction of pavements determined to have a combined condition index of less than 60 and beginning with the November 2020 report, the methodology used to determine allocations of construction funds for state of good repair purposes as defined in § 33.2-369 and any waiver of the cap provided for in subsection B of § 33.2-369;*

4. *The performance targets and outcomes for (i) the current two-year period starting July 1 of even-numbered years and (ii) the following two-year period starting July 1 of the next even-numbered year. The targets and outcomes shall state what is expected to be achieved, based on funding identified for maintenance and state of good repair purposes, over each two-year period;*

5. *Beginning with the November 2016 report, a listing of prioritized pavement and bridge needs based on the priority ranking system developed by the Board pursuant to § 33.2-369 and a description of the priority ranking system;*

6. *The Department's (i) strategies for improving safety and security and (ii) strategies and activities to improve highway operations within the Commonwealth, including the use of funds in the Innovation and Technology Transportation Fund established pursuant to § 33.2-1531 and improved incident management; and*

7. *A review of the Department's collaboration with the private sector in delivering services.*

§ 33.2-318. Bypasses through or around cities and towns.

A. The Commissioner of Highways may acquire by gift, purchase, exchange, condemnation, or otherwise such lands or interest therein necessary or proper for the purpose and may construct and improve thereon such bypasses or extensions and connections of the primary state highway system through or around cities and towns as the Board deems necessary for the uses of the primary state highway system, provided that the respective cities and towns with populations of 3,500 or more by action of their governing bodies agree to participate in accordance with the provisions of ~~§ 33.2-348~~ in all costs of such construction and improvement, including the cost of rights-of-way, on that portion of any such bypass or extension that is located within any such city or town. The maintenance of that portion of a bypass or extension located within a city or town shall be borne by the city or town. However, the Board shall contribute to such maintenance in accordance with the provisions of law governing its contribution to the maintenance of highways, bridges, and streets in such cities and towns. The location, form, and character of informational, regulatory, and warning signs, curb and pavement, or other markings and traffic signals installed or placed by any public authority shall be subject to the approval of the Commissioner of Highways. At both ends of bypasses through or around cities and towns, the Commissioner of Highways shall erect and maintain adequate directional signs of sufficient size and suitable design to indicate clearly the main route leading directly into such cities and towns.

B. Notwithstanding the provisions of subsection A, in any case in which a municipality refuses to contribute to the construction of a bypass or an extension or connection of the primary state highway system within said municipality, the Commissioner of Highways may construct such bypass or extension and connection without any contribution by the municipality when the Board determines that such bypass or extension and connection is primarily rural in character and that the most desirable and economical location is within the municipality. Any bypass or extension and connection built under this subsection shall be maintained by the Commissioner of Highways as a part of the primary state highway system, and the municipality shall receive no payment for such bypass or extension and connection under § 33.2-319.

C. All the provisions of general law relating to the exercise of eminent domain by the Commissioner of Highways are applicable to such bypasses, extensions, and connections of the primary state highway system.

D. The Board may expend out of funds appropriated to the Board *and allocated to an applicable project* under ~~subsection B and subdivision C 1 of § 33.2-358, 33.2-370, or 33.2-371~~ such funds as may be necessary to carry out the provisions of this section.

§ 33.2-319. Payments to cities and certain towns for maintenance of certain highways.

The Commissioner of Highways, subject to the approval of the Board, shall make payments for maintenance, construction, or reconstruction of highways to all cities and towns eligible for ~~allocation of construction funds for urban highways under § 33.2-362~~ *this section*. Such payments, however, shall only be made if those highways functionally classified as principal and minor arterial roads are maintained to a standard satisfactory to the Department. Whenever any city or town qualifies under this section for allocation of funds, such qualification shall continue to apply to such city or town regardless of any subsequent change in population and shall cease to apply only when so specifically provided by an act of the General Assembly. ~~All allocations made prior to July 1, 2001, to cities and towns meeting the criteria of the foregoing provisions of this section are hereby confirmed.~~

Funds are allocated to urban highways in (i) all towns that have a population of more than 3,500 according to the last preceding United States census; (ii) all towns that, according to evidence satisfactory to the Board, have attained a population of more than 3,500 since the last preceding United

States census; (iii) Chase City, Elkton, Grottoes, Narrows, Pearisburg, and Saltville, which, on June 30, 1985, maintained certain streets under former § 33.1-80 as then in effect; (iv) all cities regardless of their populations; and (v) the Towns of Altavista, Lebanon, and Wise.

No payments shall be made to any such city or town unless the portion of the highway for which such payment is made either ~~(i)~~ (a) has ~~(a)~~ (1) an unrestricted right-of-way at least 50 feet wide and ~~(b)~~ (2) a hard-surface width of at least 30 feet; ~~(ii)~~ (b) has ~~(a)~~ (1) an unrestricted right-of-way at least 80 feet wide, ~~(b)~~ (2) a hard-surface width of at least 24 feet, and ~~(c)~~ (3) approved engineering plans for the ultimate construction of an additional hard-surface width of at least 24 feet within the same right-of-way; ~~(iii)~~ (a) (c) (1) is a cul-de-sac, ~~(b)~~ (2) has an unrestricted right-of-way at least 40 feet wide, and ~~(c)~~ (3) has a turnaround that meets applicable standards set by the Department; ~~(iv)~~ (d) either ~~(a)~~ (1) has been paved and has constituted part of the primary or secondary state highway system prior to annexation or incorporation or ~~(b)~~ (2) has constituted part of the secondary state highway system prior to annexation or incorporation and is paved to a minimum width of 16 feet subsequent to such annexation or incorporation and with the further exception of streets or portions thereof that have previously been maintained under the provisions of § 33.2-339 or 33.2-340; ~~(v)~~ (e) was eligible for and receiving such payments under the laws of the Commonwealth in effect on June 30, 1985; ~~(vi)~~ (f) is a street established prior to July 1, 1950, that has an unrestricted right-of-way width of not less than 30 feet and a hard-surface width of not less than 16 feet; ~~(vii)~~ (g) is a street functionally classified as a local street that was constructed on or after January 1, 1996, and that at the time of approval by the city or town met the criteria for pavement width and right-of-way of the then-current design standards for subdivision streets as set forth in regulations adopted by the Board; ~~(viii)~~ (h) is a street previously eligible to receive street payments that is located in the City of Norfolk or the City of Richmond and is closed to public travel, pursuant to legislation enacted by the governing body of the locality in which it is located, for public safety reasons, within the boundaries of a publicly funded housing development owned and operated by the local housing authority; or ~~(ix)~~ (i) is a local street, otherwise eligible, containing one or more physical protuberances placed within the right-of-way for the purpose of controlling the speed of traffic.

However, the Commissioner of Highways may waive the requirements as to hard-surface pavement or right-of-way width for highways where the width modification is at the request of the governing body of the locality and is to protect the quality of the affected locality's drinking water supply or, for highways constructed on or after July 1, 1994, to accommodate some other special circumstance where such action would not compromise the health, safety, or welfare of the public. The modification is subject to such conditions as the Commissioner of Highways may prescribe.

For the purpose of calculating allocations and making payments under this section, the Department shall divide affected highways into two categories, which shall be distinct from but based on functional classifications established by the Federal Highway Administration: ~~(1)~~ (A) principal and minor arterial roads and ~~(2)~~ (B) collector roads and local streets. Payments made to affected localities shall be based on the number of moving-lane-miles of highways or portions thereof available to peak-hour traffic in that locality.

The Department shall recommend to the Board an annual rate per category to be computed using the base rate of growth planned for the Department's Highway Maintenance and Operations program. The Board shall establish the annual rates of such payments as part of its allocation for such purpose, and the Department shall use those rates to calculate and put into effect annual changes in each qualifying city's or town's payment under this section.

The payments by the Department shall be paid in equal sums in each quarter of the fiscal year, and payments shall not exceed the allocation of the Board.

The chief administrative officer of the city or town receiving ~~this fund~~ *these funds* shall make annual categorical reports of expenditures to the Department, in such form as the Board shall prescribe, accounting for all expenditures, certifying that none of the money received has been expended for other than maintenance, construction, or reconstruction of the streets, and reporting on their performance as specified in subsection B of § 33.2-352. Such reports shall be included in the scope of the annual audit of each municipality conducted by independent certified public accountants.

§ 33.2-328. Department of Transportation to install and maintain certain signs.

Whenever so requested by the governing body of a county, the Department shall install a system of highway name signs on state-maintained highways at such time and upon such terms and conditions as may be mutually agreed to between the county and the Commissioner of Highways.

The Department shall install, using state forces or contract, the initial signing system, and the county shall be responsible for continuing maintenance of the signs. Supply of the signs by the Department, either by manufacture or purchase, and initial installation shall be paid for from ~~appropriate secondary construction funds allocated to the county or from primary construction funds available to the Department~~ *funds available to the Department for highway maintenance*.

No highway funds shall be used by the county for the cost of maintaining the signing system.

§ 33.2-331. Annual meeting with county officers; six-year plan for secondary state highways; certain reimbursements required.

For purposes of this section, "cancellation" means complete elimination of a highway construction or improvement project from the six-year plan.

The governing body of each county in the secondary state highway system may, jointly with the representatives of the Department as designated by the Commissioner of Highways, prepare a six-year plan for the improvements to the secondary state highway system in that county. Each such six-year plan shall be based upon the best estimate of funds to be available to the county for expenditure in the six-year period on the secondary state highway system. Each such plan shall list the proposed improvements, together with an estimated cost of each project so listed. Following the preparation of the plan, the board of supervisors or other local governing body shall conduct a public hearing after publishing notice in a newspaper published in or having general circulation in the county once a week for two successive weeks and posting notice of the proposed hearing at the front door of the courthouse of such county 10 days before the meeting. At the public hearings, which shall be conducted jointly by the board of supervisors and the representative of the Department, the entire six-year plan shall be discussed with the citizens of the county and their views considered. Following the discussion, the local governing body, together with the representative of the Department, shall finalize and officially adopt the six-year plan, which shall then be considered the official plan of the county.

At least once in each calendar year, representatives of the Department in charge of the secondary state highway system in each county, or some representative of the Department designated by the Commissioner of Highways, shall meet with the governing body of each county in a regular or special meeting of the local governing body for the purpose of preparing a budget for the expenditure of improvement funds for the next fiscal year. The representative of the Department shall furnish the local governing body with an updated estimate of funds, and the board and the representative of the Department shall jointly prepare the list of projects to be carried out in that fiscal year taken from the six-year plan by order of priority and following generally the policies of the Board in regard to the statewide improvements to the secondary state highway system. Such list of priorities shall then be presented at a public hearing duly advertised in accordance with the procedure outlined in this section, and comments of citizens shall be obtained and considered. Following this public hearing, the board, with the concurrence of the representative of the Department, shall adopt, as official, a priority program for the ensuing year, and the Department shall include such listed projects in its secondary highways budget for the county for that year.

At least once every two years following the adoption of the original six-year plan, the governing body of each county, together with the representative of the Department, shall update the six-year plan of the county by adding to it and extending it as necessary so as to maintain it as a plan encompassing six years. Whenever additional funds for secondary highway purposes become available, the local governing body may request a revision in its six-year plan in order that such plan be amended to provide for the expenditure of the additional funds. Such additions and extensions to each six-year plan shall be prepared in the same manner and following the same procedures as outlined herein for its initial preparation. Where the local governing body and the representative of the Department fail to agree upon a priority program, the local governing body may appeal to the Commissioner of Highways. The Commissioner of Highways shall consider all proposed priorities and render a decision establishing a priority program based upon a consideration by the Commissioner of Highways of the welfare and safety of county citizens. Such decision shall be binding.

Nothing in this section shall preclude a local governing body, with the concurrence of the representative of the Department, from combining the public hearing required for revision of a six-year plan with the public hearing required for review of the list of priorities, provided that notice of such combined hearing is published in accordance with procedures provided in this section.

All such six-year plans shall consider all existing highways in the secondary state highway system, including those in the towns located in the county that are maintained as a part of the secondary state highway system, and shall be made a public document.

If any county cancels any highway construction or improvement project included in its six-year plan after the location and design for the project has been approved, such county shall reimburse the Department the net amount of all funds expended by the Department for planning, engineering, right-of-way acquisition, demolition, relocation, and construction between the date on which project development was initiated and the date of cancellation. To the extent that funds from secondary highway allocations pursuant to ~~§ 33.2-364~~ have been expended to pay for a highway construction or improvement project, all revenues generated from a reimbursement by the county shall be deposited into that same county's secondary highway allocation. The Commissioner of Highways may waive all or any portion of such reimbursement at his discretion.

The provisions of this section shall not apply in instances where less than 100 percent of the right-of-way is available for donation for unpaved highway improvements.

§ 33.2-337. Contributions to primary or secondary state highway construction by counties.

Notwithstanding any other provision of law, any county having highways in the primary or secondary state highway system may contribute funds annually for the construction of primary or secondary highways. The funds contributed by such county shall be appropriated from the county's

general revenues for use by the Department on the primary or secondary state highway system within such county as may be determined by the board of supervisors of such county in cooperation with the Department. The funds to which any county may be entitled under the provisions of §§ 33.2-358, ~~33.2-361~~, and ~~33.2-364~~ for construction, improvement, or maintenance of primary or secondary highways shall not be diminished by reason of any funds contributed for that purpose by such county or by any person or entity, regardless of whether such contributions are matched by state or federal funds.

§ 33.2-338. Construction and improvement of primary or secondary highways by counties.

A. Notwithstanding any other provisions of this article, the governing body of any county may expend general revenues or revenues derived from the sale of bonds for the purpose of constructing or improving highways, including curbs, gutters, drainageways, sound barriers, sidewalks, and all other features or appurtenances conducive to the public safety and convenience, that either have been or may be taken into the primary or secondary state highway system. Project planning and the acquisition of rights-of-way shall be under the control and at the direction of the county, subject to the approval of project plans and specifications by the Department. All costs incurred by the Department in administering such contracts shall be reimbursed from the county's general revenues or from revenues derived from the sale of bonds or such costs may be charged against the funds that the county may be entitled to under the provisions of § 33.2-358; ~~33.2-361~~, or ~~33.2-364~~.

B. Projects undertaken under the authority of subsection A shall not diminish the funds to which a county may be entitled under the provisions of § 33.2-357, or 33.2-358; ~~33.2-361~~, or ~~33.2-364~~.

C. At the request of the county, the Department may agree to undertake the design, right-of-way acquisition, or construction of projects funded by the county. In such situations, the Department and the county shall enter into an agreement specifying all relevant procedures and responsibilities concerning the design, right-of-way acquisition, construction, or contract administration of projects to be funded by the county. The county shall reimburse the Department for all costs incurred by the Department in carrying out the aforesaid activities from general revenues or revenues derived from the sale of bonds.

D. Notwithstanding any contrary provision of law, any county may undertake activities toward the design, land acquisition, or construction of primary or secondary state highway projects that have been included in the six-year plan pursuant to § 33.2-331, or in the case of a primary state highway, an approved project included in the six-year improvement program of the Board. In such situations, the Department and the county shall enter into an agreement specifying all relevant procedures and responsibilities concerning the design, right-of-way acquisition, construction, or contract administration of projects to be funded by the Department. Such activities shall be undertaken with the prior concurrence of the Department, and the Department shall reimburse the county for expenses incurred in carrying out these activities. Such reimbursement shall be derived from primary or secondary highway funds that the county may be entitled to under the provisions of this chapter. The county may undertake these activities in accordance with all applicable county procedures, provided the Commissioner of Highways finds that those county procedures are substantially similar to departmental procedures and specifications.

E. If funding for the construction of a primary or interstate project is scheduled in the Board's Six-Year Improvement Program as defined in § 33.2-214, a locality may choose to advance funds to the project. If such advance is offered, the Board may consider such request and agree to such advancement and the subsequent reimbursement of the locality of the advance in accordance with terms agreed upon by the Board or its designee and the locality.

F. Any county carrying out any construction project as authorized in this section may, in so doing, exercise the powers granted the Commissioner of Highways under Article 1 (§ 33.2-1000 et seq.) of Chapter 10 to enter property for the purpose of making an examination and survey thereof, with a view to ascertainment of its suitability for highway purposes and any other purpose incidental thereto.

G. For the purposes of this section, any county without an existing franchise agreement, when administering a Department-sanctioned project under a land-use permit or transportation project agreement, shall have the same authority as the Department pertaining to the relocation of utilities.

H. Whenever so requested by any county, funding of any project undertaken as provided in this section may be supplemented solely by state funds in order to avoid the necessity of complying with additional federal requirements, provided a determination has been made by the Department that (i) adequate state funds are available to fully match available federal transportation funds and (ii) the Department can meet its federal obligation authority, as permitted by federal law.

§ 33.2-349. Character of signs, markings, and signals.

On any urban highway upon which the Board has expended funds ~~in the manner provided in §§ 33.2-348 and 33.2-362~~, the location, form, and character of informational, regulatory, and warning signs, curb and pavement, or other markings and traffic signals installed or placed by any public authority shall be subject to the approval of the Commissioner of Highways.

§ 33.2-352. Asset management practices; report.

A. The Department shall develop asset management practices in the operation and maintenance of the systems of state highways. *Such practices shall include a transparent methodology for the allocation of funds from the Highway Maintenance and Operating Fund established pursuant to § 33.2-1530 to*

highway systems maintenance and operations programs, including the allocations among the highway construction districts and among the Interstate System and primary and secondary state highway systems.

B. The Commissioner of Highways shall advise the Board on or before June 30 of even-numbered years of performance targets and outcomes that are expected to be achieved, based on the funding identified for maintenance, over the biennium beginning July 1 of that year. In addition, not later than September 30 of even-numbered years, the Commissioner of Highways shall advise the Board on the Department's accomplishments relative to the expected outcomes and budget expenditures for the biennium ending June 30 of that year and also advise the Board as to the methodology used to determine maintenance needs and the justification as to the maintenance funding by source.

§ 33.2-357. Revenue-sharing funds for systems in certain localities.

A. From revenues made available by the General Assembly and appropriated for the improvement, construction, reconstruction, or maintenance of the systems of state highways, the Board may make an equivalent matching allocation to any locality for designations by the governing body of up to \$10 million for use by the locality to improve, construct, or reconstruct the highway systems within such locality with up to \$5 million for use by the locality to maintain the highway systems within such locality. After adopting a resolution supporting the action, the governing body of the locality may request revenue-sharing funds to improve, construct, reconstruct, or maintain a highway system located in another locality or between two or more localities or to bring subdivision streets, used as such prior to the date specified in § 33.2-335, up to standards sufficient to qualify them for inclusion in the primary or secondary state highway system. All requests for funding shall be accompanied by a prioritized listing of specified projects.

B. In allocating funds under this section, the Board shall give priority ~~first to allocations that will accelerate projects in the Board's Six-Year Improvement Program or the locality's capital plan and next to those to projects as follows:~~ *first, to projects that have previously received an allocation of funds pursuant to this section; second, to projects that (i) meet a transportation need identified in the Statewide Transportation Plan pursuant to § 33.2-353 or (ii) accelerate a project in a locality's capital plan; and third, to projects that address pavement resurfacing and bridge rehabilitation projects where the maintenance needs analysis determines that the infrastructure is below does not meet the* Department's maintenance performance targets.

C. The Department shall contract with the locality for the implementation of the project. Such contract may cover either a single project or may provide for the locality's implementation of several projects. The locality shall undertake implementation of the particular project by obtaining the necessary permits from the Department in order to ensure that the improvement is consistent with the Department's standards for such improvements. At the request of the locality, the Department may provide the locality with engineering, right-of-way acquisition, construction, or maintenance services for a project with its own forces. The locality shall provide payment to the Department for any such services. If administered by the Department, such contract shall also require that the governing body of the locality pay to the Department within 30 days the local revenue-sharing funds upon written notice by the Department of its intent to proceed. Any project having funds allocated under this program shall be initiated in such a fashion that at least a portion of such funds have been expended within one year of allocation. Any revenue-sharing funds for projects not initiated after two subsequent fiscal years of allocation may be reallocated at the discretion of the Board.

D. Total Commonwealth funds allocated by the Board under this section shall be no less than \$15 million and no more than \$200 million in each fiscal year, subject to appropriation for such purpose. For any fiscal year in which less than the full program allocation has been allocated by the Board to specific governing bodies, those localities requesting the maximum allocation under subsection A may be allowed an additional allocation at the discretion of the Board.

E. The funds allocated by the Board under this section shall be distributed and administered in accordance with the revenue-sharing program guidelines established by the Board.

§ 33.2-358. Allocation of funds among highway systems.

A. For the purposes of this section:

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

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

"High-tech infrastructure improvements" means those projects or programs identified by the Board that reduce congestion, improve mobility, improve safety, provide up-to-date travel data, or improve emergency response.

B. The Board shall allocate each year from all funds made available for highway purposes such amount as it deems reasonable and necessary for the maintenance of roads within the Interstate System, the primary state highway system, and the secondary state highway system and for city and town street maintenance payments made pursuant to § 33.2-319 and payments made to counties that have withdrawn or elect to withdraw from the secondary state highway system pursuant to § 33.2-366.

C. ~~After~~ *Until July 1, 2020, after* funds are set aside for administrative and general expenses and pursuant to other provisions in this title that provide for the disposition of funds prior to allocation for highway purposes, and after allocation is made pursuant to subsection B, the Board shall allocate an amount determined by the Board not to exceed \$500 million in any given year as follows: (i) 25 percent to bridge reconstruction and rehabilitation; (ii) 25 percent to advancing high priority projects statewide; (iii) 25 percent to reconstructing deteriorated Interstate System, primary state highway system, and municipality maintained primary extension pavements determined to have a Combined Condition Index of less than 60; (iv) 15 percent to projects undertaken pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.); (v) five percent to paving unpaved highways carrying more than 50 vehicles per day; and (vi) five percent to the Innovation and Technology Transportation Fund established pursuant to § 33.2-1531 for high-tech infrastructure improvements, provided that at the discretion of the Board such percentages of funds may be adjusted in any given year to meet project cash flow needs or when funds cannot be expended due to legal, environmental, or other project management considerations ~~and provided that such allocations shall cease beginning July 1, 2020.~~ After such allocations are made, the Board may allocate each year up to 10 percent of the funds remaining for highway purposes for the undertaking and financing of rail projects that in the Board's determination will result in mitigation of highway congestion. After the foregoing allocations have been made, the Board shall allocate the remaining funds available for highway purposes, exclusive of federal funds for the Interstate System, ~~among the highway systems for construction first pursuant to §§ 33.2-359 and § 33.2-360 and then any funds not allocated to a project in the Six-Year Improvement Program as follows:~~

1. ~~Forty percent of the remaining funds exclusive of federal-aid matching funds for the Interstate System shall be allocated to the primary state highway system, including the arterial network, and in addition, an amount shall be allocated to the primary state highway system as interstate matching funds as provided in subsection B of § 33.2-361.~~

2. ~~Thirty percent of the remaining funds exclusive of federal-aid matching funds for the Interstate System shall be allocated to urban highways for state aid pursuant to § 33.2-348.~~

3. ~~Thirty percent of the remaining funds exclusive of federal-aid matching funds for the Interstate System shall be allocated to the secondary state highway system 50 percent for the high-priority projects program established pursuant to § 33.2-370 and 50 percent for the highway construction district grant programs established pursuant to § 33.2-371.~~

D. *For funds allocated for fiscal years beginning on and after July 1, 2020, after funds are set aside for administrative and general expenses and pursuant to other provisions in this title that provide for the disposition of funds prior to allocation for highway purposes, and after allocation is made pursuant to subsection B, the Board shall allocate all remaining funds, including funds apportioned pursuant to 23 U.S.C. § 104, as follows:*

1. *Forty-five percent of the remaining funds to state of good repair purposes as set forth in § 33.2-369;*

2. *Twenty-seven and one-half percent of the remaining funds to the high-priority projects program established pursuant to § 33.2-370; and*

3. *Twenty-seven and one-half percent of the remaining funds to the highway construction district grant programs established pursuant to § 33.2-371.*

E. *The funds allocated in subsection C or D shall not include any federal funds and related state match for federal funds with restrictions regarding the construction of general capacity expansion of roadways, or federal funds not under the control of the Board. Such exclusion shall not include restrictions on the location of projects to specific road classifications.*

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

~~E. G.~~ *Notwithstanding the provisions of this section, the General Assembly may, through the general appropriation act, permit the Governor to increase the amounts to be allocated to highway maintenance, highway construction, either or both.*

§ 33.2-359. Unpaved secondary highway funds.

A. ~~Before funds are allocated for distribution for highway construction pursuant to subdivisions C 1, 2, and 3 of § 33.2-358, a fund shall be established for the paving of nonsurface treated secondary highways that carry 50 vehicles or more per day. Such fund shall contain 5.67 percent of the total funds available for highway construction under subdivisions C 1, 2, and 3 of § 33.2-358 Funds from the highway construction district grant programs established pursuant to § 33.2-371 shall be allocated for the improvement of nonsurface treated secondary highways that carry 50 or more vehicles per day. Funds shall be deducted from the allocation made to each highway construction district pursuant to subsection D of § 33.2-371 and such deduction shall be based on the ratio of nonsurface treated secondary highways in each highway construction district that carry 50 or more vehicles per day to the total number of such nonsurface treated secondary highways in the Commonwealth.~~

Total funds of the Commonwealth allocated by the Board under this section shall not exceed \$25 million annually.

B. Such funds shall be distributed to counties in the secondary state highway system based on the ratio of nonsurface treated roads in each county carrying 50 vehicles or more per day to the total number of such nonsurface treated roads in the Commonwealth.

C. ~~The governing body of any county may have funds allocated to the county under this section added to the county's secondary system construction funds allocated pursuant to § 33.2-364. For each \$250,000 or portion thereof added to secondary construction funds under this provision, the amount of the county's nonsurface treated roads used to distribute funds under this section in subsequent years shall be reduced by one mile or proportional part of one mile.~~

§ 33.2-360. Allocation of funds for interstate match.

~~After~~ *Until July 1, 2020, after* making the allocations provided for in subsection B of § 33.2-358; ~~but before making any allocations under subdivisions C 1, 2, and 3 of § 33.2-358, a fund shall be established for matching federal-aid interstate funds.~~

This fund shall be established annually by allocating to it all federal-aid interstate matching funds needed for the year; ~~less the total amount of highway construction district primary allocations for the interstate federal-aid match allocated under subsection B of § 33.2-361.~~

§ 33.2-363. Construction of U.S. Route 29 bypass.

If the construction of a U.S. Route 29 bypass around any city located in any county that both (i) is located outside Planning District 8 and (ii) operates under the county executive form of government is not constructed because of opposition from a metropolitan planning organization, and the Federal Highway Administration requires the Commonwealth to reimburse the federal government for federal funds expended in connection with such project, an amount equal to the amount of such reimbursement shall be deducted by the Board from ~~primary state highway system construction~~ funds allocated or allocable to the highway construction district in which the project was located. Furthermore, in the event of such nonconstruction, an amount equal to the total of all state funds expended on such project shall be deducted by the Board from ~~primary state highway system construction~~ funds allocated or allocable to the highway construction district in which the project was located.

§ 33.2-365. Allocation of proceeds of Commonwealth of Virginia Transportation Capital Projects Revenue Bonds.

The Board shall allocate, use, and distribute the proceeds of any bonds it is authorized to issue on or after July 1, 2007, pursuant to subdivision 10 of § 33.2-1701, as follows:

1. A minimum of 20 percent of the bond proceeds shall be used for transit capital as further described in subdivision A 4 c of § 58.1-638.
2. A minimum of 4.3 percent of the bond proceeds shall be used for rail capital consistent with the provisions of §§ 33.2-1601 and 33.2-1602.
3. The remaining amount of bond proceeds shall be used for paying the costs incurred or to be incurred for construction of transportation projects with such bond proceeds used or allocated as follows: (i) first, to match federal highway funds projected to be made available and allocated to highway and public transportation capital projects to the extent determined by the Board, for purposes of allowing additional state construction funds to be allocated ~~to the primary, urban, and secondary highway systems pursuant to subdivisions C 1, 2, and 3 of § 33.2-358;~~ (ii) second, to provide any required funding to fulfill the Commonwealth's allocation of equivalent revenue sharing matching funds pursuant to § 33.2-357 to the extent determined by the Board; and (iii) third, to pay or fund the costs of statewide or regional projects throughout the Commonwealth. Costs incurred or to be incurred for construction or funding of these transportation projects shall include environmental and engineering studies; rights-of-way acquisition; improvements to all modes of transportation; acquisition, construction, and related improvements; and any financing costs or other financing expenses relating to such bonds. Such costs may include the payment of interest on such bonds for a period during construction and not exceeding one year after completion of construction of the relevant project.

4. The total amount of bonds authorized shall be used for purposes of applying the percentages in subdivisions 1, 2, and 3.

§ 33.2-366. Funds for counties that have withdrawn or elect to withdraw from the secondary state highway system.

Pursuant to subsection B of § 33.2-358, the Board shall make the following payments to counties that have withdrawn or elect to withdraw from the secondary state highway system under the provisions of § 11 of Chapter 415 of the Acts of Assembly of 1932 and that have not elected to return: to any county having withdrawn prior to June 30, 1985, and having an area greater than 100 square miles, an amount equal to \$12,529 per lane-mile for fiscal year 2014, and to any county having an area less than 100 square miles, an amount equal to \$17,218 per lane-mile for fiscal year 2014; to any county that elects to withdraw after June 30, 1985, the Board shall establish a rate per lane-mile for the first year using (i) an amount for maintenance based on maintenance standards and unit costs used by the Department to prepare its secondary state highway system maintenance budget for the year in which the county withdraws and (ii) an amount for administration equal to five percent of the maintenance figure

determined in clause (i). The payment rates shall be adjusted annually by the Board in accordance with procedures established for adjusting payments to cities and towns under § 33.2-319, and lane mileage shall be adjusted annually to include (a) streets and highways accepted for maintenance in the county system by the local governing body or (b) streets and highways constructed according to standards set forth in the county subdivision ordinance or county thoroughfare plan, and being not less than the standards set by the Department. Such counties shall, ~~in addition, each receive for construction from funds allocated pursuant to subdivision C 3 of § 33.2-358~~ *an annual amount calculated in the same manner as payments for construction in the secondary state highway system are calculated be eligible to receive allocations pursuant to subsection C or D of § 33.2-358.*

Payment of the funds shall be made in four equal sums, one in each quarter of the fiscal year, ~~and shall be reduced in the case of each such county by the amount of federal-aid construction funds credited to each such county.~~

The chief administrative officer of such counties receiving such funds shall make annual reports of expenditures to the Board, in such form as the Board shall prescribe, accounting for all expenditures, including delineation between construction and maintenance expenditures and reporting on their performance as specified in subsection B of § 33.2-352. Such reports shall be included in the scope of the annual audit of each county conducted by independent certified public accountants.

§ 33.2-369. State of good repair.

A. As used in this section, *"state of good repair purposes"* means improvement of deficient pavement conditions and improvement of structurally deficient bridges.

B. The Board shall use funds allocated in § 33.2-358 and § 58.1-1741 to state of good repair purposes for reconstruction and replacement of structurally deficient state and locally owned bridges and reconstruction and rehabilitation of pavement on the Interstate System and primary state highway system determined to be deteriorated by the Board, including municipality-maintained primary extensions.

The Board shall allocate these funds to projects in all nine highway construction districts for state of good repair purposes based on a priority ranking system that takes into consideration (i) the number, condition, and costs of structurally deficient bridges and (ii) the mileage, condition, and costs to replace deteriorated pavements. The Board shall ensure an equitable needs-based distribution of funding among the highway construction districts, with no district receiving more than 17.5 percent or less than 5.5 percent of the total funding allocated in any given year. The Board may, by a duly adopted resolution, waive the cap provided in this section for a fiscal year only when it determines that due to extraordinary circumstances or needs the cap inhibits the ability of the Department to address a key pavement or bridge need that has been identified.

C. In any year in which the Department has not met the established targets for secondary pavements developed in accordance with § 33.2-232 and before making the allocations in subsection B, the Board may allocate up to 20 percent of these funds to all nine highway construction districts to improve the condition of secondary pavements. The Board shall ensure an equitable needs-based distribution of funds among highway construction districts based on the mileage, condition, and cost to improve secondary pavements.

§ 33.2-370. High-priority projects program.

A. As used in this section, *"high-priority projects"* means those projects of regional or statewide significance, such as projects that reduce congestion or increase safety, accessibility, environmental quality, or economic development.

B. The Board shall establish a high-priority projects program and shall use funds allocated in § 33.2-358 to the program for projects and strategies that address a transportation need identified for a corridor of statewide significance or a regional network in the Statewide Transportation Plan pursuant to § 33.2-353. From funds allocated to this program, the Board shall allocate funds to the Innovation and Technology Transportation Fund, provided that the allocation shall not exceed \$25 million annually.

In selecting projects and strategies for funding under this program, the Board shall screen, evaluate, and select candidate projects and strategies according to the process established pursuant to subsection B of § 33.2-214.1.

§ 33.2-371. Highway construction district grant programs.

A. As used in this section:

"Land area" means the total land area of the counties within a highway construction district reduced by the area of any military reservations and state or national parks or forests within its boundaries and such other similar areas and facilities of five square miles in area or more, as may be determined by the Board.

"Population" means the population according to the latest U.S. census or the latest population estimates made by the Weldon Cooper Center for Public Service of the University of Virginia, whichever is more recent.

B. The Board shall establish a grant program in each highway construction district to fund projects and strategies that address a need in the Statewide Transportation Plan developed pursuant to

§ 33.2-353.

C. The Board shall solicit candidate projects and strategies from local governments for consideration in the applicable highway construction district's grant program. Candidate projects and strategies shall be screened, evaluated, and selected by the Board according to the process established pursuant to subsection B of § 33.2-214.1 but shall be within a highway construction district and not outside such highway construction district. Candidate projects and strategies from localities within a highway construction district shall be scored against projects and strategies within the same highway construction district. Only those candidate projects and strategies submitted by a locality shall be funded.

D. Funds allocated to this program under § 33.2-358 shall be distributed to each highway construction district for that district's grant program as follows:

1. Thirty percent based on the ratio of the population of the cities and towns eligible to receive payments pursuant to § 33.2-319 within a highway construction district to the total population of the cities and towns eligible to receive payments pursuant to § 33.2-319 within the Commonwealth;

2. Twenty-eight percent based on the ratio of vehicle miles traveled on primary highways within the highway construction district to the total vehicle miles traveled on primary highways in the Commonwealth;

3. Twenty-four percent based on the ratio of the population of counties within a highway construction district to the total population of all counties within the Commonwealth;

4. Ten percent based on the ratio of the number of primary lane-miles in the highway construction district to the total number of primary lane-miles within the Commonwealth;

5. Six percent based on the ratio of the land area of counties within the highway construction district to the total land area of counties within the Commonwealth; and

6. Two percent based on a primary need factor based on addressing the largest under-allocation to highway construction districts relative to primary needs.

E. Projects awarded funds under a grant program established by this section may be administered by the local government pursuant to § 33.2-228 or by the Department.

§ 33.2-1501. Definitions.

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

"Bank" means the Virginia Transportation Infrastructure Bank created in § 33.2-1502.

"Cost," as applied to any project financed under the provisions of this article, means the total of all costs, including the costs of planning, design, right-of-way acquisition, engineering, and construction, incurred by an eligible borrower or other project sponsor as reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project. "Cost" also includes capitalized interest; reasonably required reserve funds; and financing, credit enhancement, and issuance costs.

"Credit enhancements" means surety bonds, insurance policies, letters of credit, guarantees, and other forms of collateral or security.

"Creditworthiness" means attributes such as revenue stability, debt service coverage, reserves, and other factors commonly considered in assessing the strength of the security for indebtedness.

"Eligible borrower" means any (i) private entity; (ii) governmental entity; (iii) instrumentality, corporation, or entity established by any of the foregoing pursuant to § 33.2-1505; or (iv) combination of two or more of the foregoing.

"Finance" and any variation of the term, when used in connection with a cost or a project, includes both the initial financing and any refinancing of the cost or project and any variation of such terms. "Finance" does not include a grant.

"Governmental entity" means any (i) locality; (ii) local, regional, state, or federal entity; transportation authority, planning district, commission, or political subdivision created by the General Assembly or pursuant to the Constitution and laws of the Commonwealth; or public transportation entity owned, operated, or controlled by one or more local entities; (iii) entity established by interstate compact; (iv) instrumentality, corporation, or entity established by any of the foregoing pursuant to § 33.2-1505; or (v) combination of two or more of the foregoing.

"Grant" means a transfer of moneys or property that does not impose any obligation or condition on the grantee to repay any amount to the transferor other than in connection with assuring that the transferred moneys or property will be spent or used in accordance with the governmental purpose of the transfer. "Grant" includes direct cash payments made to pay or reimburse all or a portion of interest payments made by a grantee on a debt obligation. As provided in §§ 33.2-1502 and 33.2-1503, only governmental entities may receive grants of moneys or property held in or for the credit of the Bank.

"Loan" means an obligation subject to repayment that is provided by the Bank to an eligible borrower to finance all or a part of the eligible cost of a project incurred by the eligible borrower or other project sponsor. A loan may be disbursed (i) in anticipation of reimbursement (including an advance or draw under a credit enhancement instrument), (ii) as direct payment of eligible costs, or (iii) to redeem or defease a prior obligation incurred by the eligible borrower or other project sponsor to finance the eligible costs of a project.

"Management agreement" means the memorandum of understanding or interagency agreement among the manager, the Secretary of Finance, and the Board as authorized under subsection B of § 33.2-1502.

"Manager" means the Virginia Resources Authority serving as the manager, administrator, and trustee of funds disbursed from the Bank in accordance with the provisions of this article and the management agreement.

"Other financial assistance" ~~means, but is not limited to, grants,~~ includes capital, or debt reserves for bonds or debt instrument financing, provision of letters of credit and other forms of credit enhancement, and other lawful forms of financing and methods of leveraging funds that are approved by the manager.

"Private entity" means any private or nongovernmental entity that has executed an interim or comprehensive agreement to develop and construct a transportation infrastructure project pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.).

"Project" means (i) the construction, reconstruction, rehabilitation, or replacement of any interstate, state highway, toll road, tunnel, local street or road, or bridge; (ii) the construction, reconstruction, rehabilitation, or replacement of any (a) mass transit, (b) commuter, passenger, or freight rail, (c) port, (d) airport, or (e) commercial space flight facility; or (iii) the acquisition of any rolling stock, vehicle, or equipment to be used in conjunction with clause (i) or (ii).

"Project obligation" means any bond, note, debenture, interim certificate, grant or revenue anticipation note, lease or lease-purchase or installment sales agreement, or credit enhancements issued, incurred, or entered into by an eligible borrower to evidence a loan, or any financing agreements, reimbursement agreements, guarantees, or other evidences of an obligation of an eligible borrower or other project sponsor to pay or guarantee a loan.

"Project sponsor" means any private entity or governmental entity that is involved in the planning, design, right-of-way acquisition, engineering, construction, maintenance, or financing of a project.

"Reliable repayment source" means any means by which an eligible borrower or other project sponsor generates funds that are dedicated to the purpose of retiring a project obligation.

"Substantial project completion" means the opening of a project for vehicular or passenger traffic or the handling of cargo and freight.

§ 33.2-1502. Creation of the Virginia Transportation Infrastructure Bank.

A. There is hereby created in the state treasury a special nonreverting, revolving loan fund, known as the Virginia Transportation Infrastructure Bank, that is a subfund of the Transportation Trust Fund, established pursuant to § 33.2-1524. The Bank shall be established on the books of the Comptroller. The Bank shall be capitalized with (i) *two-thirds of all interest, dividends, and appreciation that may accrue to the Transportation Trust Fund and the Highway Maintenance and Operating Fund* and (ii) moneys appropriated by the General Assembly and credited to the Bank. Disbursements from the Bank shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner of Highways or his ~~or her~~ designee. Payments on project obligations and interest earned on the moneys in the Bank shall be credited to the Bank. Any moneys remaining in the Bank, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Bank. Notwithstanding anything to the contrary set forth in this article or in the management agreement, the Board will have the right to determine the projects for which loans or other financial assistance may be provided by the Bank. Moneys in the Bank shall be used solely for the purposes enumerated in ~~subsections~~ *subsection C and D*.

B. The Board, the manager, and the Secretary of Finance are authorized to enter into a management agreement which may include provisions (i) setting forth the terms and conditions under which the manager will advise the Board on the financial propriety of providing particular loans or other financial assistance; (ii) setting forth the terms and conditions under which the substantive requirements of subsections C ~~through F, D, and E~~ and § 33.2-1505 will be applied and administered; and (iii) authorizing the manager to request the Board to disburse from the moneys in the Bank the reasonable costs and expenses the manager may incur in the management and administration of the Bank and a reasonable fee to be approved by the Board for the manager's management and administrative services.

C. 1. Moneys deposited in the Bank shall be used for the purpose of making loans and other financial assistance to finance projects.

2. Each project obligation shall be payable, in whole or in part, from reliable repayment sources pledged for such purpose.

3. The interest rate on a project obligation shall be determined by reference to the current market rates for comparable obligations, the nature of the project and the financing structure therefor, and the creditworthiness of the eligible borrower and other project sponsors.

4. The repayment schedule for each project obligation shall require (i) the amortization of principal beginning within five years following the later of substantial project completion or the date of incurrence of the project obligation and (ii) a final maturity date of not more than 35 years following substantial project completion.

D. ~~A portion not to exceed 20 percent of the capitalization of the Bank may be used for grants to governmental entities to finance projects.~~

E. The pledge of reliable repayment sources and other property securing any project obligation may

be subordinate to the pledge securing any other senior debt obligations incurred to finance the project.

~~F. E.~~ Notwithstanding subdivision C 4, the manager may at any time following substantial project completion defer payments on a project obligation if the project is unable to generate sufficient revenues to pay the scheduled payments.

~~G. F.~~ No loan or other financial assistance may be provided or committed to be provided by the Bank in a manner that would cause such loan or other financial assistance to be tax-supported debt within the meaning of § 2.2-2713 or be deemed to constitute a debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth but shall be payable solely from legally available moneys held by the Bank.

~~H. G.~~ Neither the Bank nor the manager is authorized or empowered to be or to constitute (i) a bank or trust company within the jurisdiction or under the control of the Commonwealth or an agency thereof or the Comptroller of Currency of the U.S. Treasury Department or (ii) a bank, banker, or dealer in securities within the meaning of, or subject to the provisions of, any securities, securities exchange, or securities dealers law of the United States or of the Commonwealth.

~~I. H.~~ The Board or the manager may establish or direct the establishment of federal and state accounts or subaccounts as may be necessary to meet any applicable federal law requirements or desirable for the efficient administration of the Bank in accordance with this article.

§ 33.2-1503. Eligibility and project selection.

A. Any entity constituting an eligible borrower or other project sponsor is eligible to apply to the Board for project financing from the Bank.

~~B. Notwithstanding subsection A, only governmental entities are eligible to apply for a grant from the Bank.~~

~~C. Any governmental entity applying for a grant must demonstrate, among other things as determined by the manager, that the project cannot be financed on reasonable terms or would otherwise be financially infeasible without the grant.~~

~~D. All applicants for a loan or other financial assistance (other than a grant) must file an application with the Board, which must include all items determined by the Board in consultation with the manager to be necessary and appropriate for the Board to determine whether or not to approve the loan, including the availability of reliable repayment sources to retire the project obligation as well as creditworthiness.~~

~~E. C.~~ Each applicant for a loan or other financial assistance must demonstrate that the project is of local, regional, or statewide significance and that it meets the goal of generating economic benefits, improving air quality, reducing congestion, or improving safety through enhancement of the state transportation network *meets the public interest identified in subsection A of § 33.2-214.1*. Another criterion to be considered is whether or not the loan or other financial assistance will enable the project to be completed at an earlier date than would otherwise be feasible. The Board shall issue guidelines for scoring projects in accordance with the criteria set out in this subsection B of § 33.2-214.1 and any other criteria deemed necessary and appropriate for evaluating projects as determined by the Board in consultation with the manager and shall apply the scoring guidelines to each proposed project. Further, the Board shall promptly publish each proposed project and its score using the scoring guidelines.

~~F. D.~~ All projects for which a loan or other financial assistance is provided must meet and remain in compliance with the policies and guidelines established by the Board and the manager.

§ 33.2-1505. Project obligations.

A. Subject to the terms determined by the manager in accordance with the management agreement, each loan or other financial assistance ~~(which for purposes of this section shall not include grants)~~ shall be evidenced or guaranteed by project obligations provided to finance the costs of any project. The manager may also sell any project obligations so acquired and apply the proceeds of such a sale to the making of additional loans and the provision of other financial assistance for financing the cost of any project or for any other corporate purpose of the Bank.

B. The manager may require, as a condition to provision of a loan or other financial assistance and the acquisition of any project obligations, that the eligible borrower or any other project sponsor covenant to perform any of the following:

1. Establish and collect tolls, rents, rates, fees, and other charges to produce revenue sufficient to pay all or a specified portion of (i) the costs of operation, maintenance, replacement, renewal, and repairs of the project; (ii) any outstanding indebtedness incurred for the purposes of the project, including the principal of and premium, if any, and interest on the project obligations; and (iii) any amounts necessary to create and maintain any required reserve, including any rate stabilization fund deemed necessary or appropriate by the manager to offset the need, in whole or part, for future increases in tolls, rents, rates, fees, or charges;

2. Create and maintain a special fund or funds as security for or the source of the scheduled payments on the project obligations or for the operation, maintenance, repair, or replacement of the project or any portions thereof or other property of the eligible borrower or any other project sponsor and deposit into any fund or funds amounts sufficient to make any payments as they become due and payable;

3. Create and maintain other special funds as required by the manager; and

4. Perform other acts, including the conveyance or mortgaging of real and personal property together with all right, title, and interest therein to secure project obligations, or take other actions as may be deemed necessary or desirable by the manager to secure payment of the project obligations and to provide for remedies in the event of any default or nonpayment by the eligible borrower or any other project sponsor, including any of the following:

a. The procurement of credit enhancements or liquidity arrangements for project obligations from any source, public or private, and the payment therefor of premiums, fees, or other charges.

b. The combination of one or more projects, or the combination of one or more projects with one or more other undertakings, facilities, or systems, for the purpose of operations and financing, and the pledging of the revenues from such combined projects, undertakings, facilities, and systems to secure project obligations issued in connection with such combination or any part or parts thereof.

c. The payment of such fees and charges in connection with the acquisition of the project obligations as may be determined by the manager.

C. All eligible borrowers and other project sponsors, including any governmental entities, providing project obligations to the Bank are authorized to perform any acts, take any action, adopt any proceedings, and make and carry out any contracts with the Bank, the manager, or the Board that are contemplated by this article. Such contracts need not be identical among all eligible borrowers or other project sponsors, but may be structured as determined by the manager according to the needs of the contracting eligible borrowers and other project sponsors and the purposes of the Bank.

In addition, subject to the approval of the manager, any project sponsor is authorized to establish and contract with a special purpose or limited purpose instrumentality, corporation, or other entity for the purpose of having such entity serve as the eligible borrower with respect to a particular project.

§ 33.2-1510. Fund for access roads and bikeways to public recreational areas and historical sites; construction, maintenance, etc., of such facilities.

A. The General Assembly finds and declares that there is an increasing demand by the public for more public recreational areas throughout the Commonwealth, therefore creating a need for more access to these areas. There are also many sites of historical significance to which access is needed.

The General Assembly hereby declares it to be in the public interest that access roads and bikeways to public recreational areas and historical sites be provided by using funds obtained from motor fuel tax collections on motor fuel used for propelling boats and ships and funds contained in the highway portion of the Transportation Trust Fund.

B. ~~The~~ *Prior to making allocations pursuant to subsection D of § 33.2-358, the Board shall, from funds allocated to the primary system, secondary system, or urban system,* set aside the sum of \$3 million initially. This fund shall be expended by the Board for the construction, reconstruction, maintenance, or improvement of access roads and bikeways within localities. At the close of each succeeding fiscal year, the Board shall replenish this fund to the extent it deems necessary to carry out the purpose intended, provided the balance in the fund plus the replenishment does not exceed \$3 million.

C. Upon the setting aside of the funds as provided in this section, the Board shall construct, reconstruct, maintain, or improve access roads and bikeways to public recreational areas and historical sites upon the following conditions:

1. When the Director of the Department of Conservation and Recreation has designated a public recreational area as such or when the Director of the Department of Historic Resources has determined a site or area to be historic and recommends to the Board that an access road or bikeway be provided or maintained to that area;

2. When the Board pursuant to the recommendation from the Director of the Department of Conservation and Recreation declares by resolution that the access road or bikeway be provided or maintained;

3. When the governing body of the locality in which the access road or bikeway is to be provided or maintained passes a resolution requesting the road; and

4. When the governing body of the locality in which the bikeway is to be provided or maintained adopts an ordinance pursuant to Article 7 (§ 15.2-2280 et seq.) of Chapter 22 of Title 15.2.

No access road or bikeway shall be constructed, reconstructed, maintained, or improved on privately owned property.

D. Any access road constructed, reconstructed, maintained, or improved pursuant to the provisions of this section shall become part of the primary state highway system, the secondary state highway system, or the road system of the locality in which it is located in the manner provided by law and shall thereafter be constructed, reconstructed, maintained, and improved as other roads or highways in such systems. Any bikeway path constructed, reconstructed, maintained, or improved pursuant to the provisions of this section that is not situated within the right-of-way limits of an access road that has become, or which is to become, part of the primary state highway system, the secondary state highway system, or the road system of the locality shall, upon completion, become part of and be regulated and maintained by the authority or agency maintaining the public recreational area or historical site. It shall be the responsibility of the authority, agency, or locality requesting that a bikeway be provided for a

public recreational or historical site to provide the right-of-way needed for the construction, reconstruction, maintenance, or improvement of the bikeway if such is to be situated outside the right-of-way limits of an access road.

To maximize the impact of the Fund, not more than \$400,000 of recreational access funds may be allocated for each individual access road project to or within any public recreational area or historical site operated by a state agency and not more than \$250,000 of recreational access funds may be allocated for each individual access road project to or within a public recreational area or historical site operated by a locality or an authority with an additional \$100,000 if supplemented on a dollar-for-dollar basis by the locality or authority from other than highway sources. Not more than \$75,000 of recreational access funds may be allocated for each individual bikeway project to a public recreational area or historical site operated by a state agency and not more than \$60,000 of recreational access funds may be allocated for each individual bikeway project to a public recreational area or historical site operated by a locality or an authority with an additional \$15,000 if supplemented on a dollar-for-dollar basis by a locality or authority from other than highway sources.

The Board, with the concurrence of the Director of the Department of Conservation and Recreation, is hereby authorized to establish guidelines to carry out the provisions of this section.

§ 33.2-1526. Commonwealth Space Flight Fund, Commonwealth Port Fund, Commonwealth Airport Fund, and Commonwealth Mass Transit Fund.

Of the funds becoming part of the Transportation Trust Fund pursuant to subdivision 2 of § 33.2-1524, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund as established in subdivision A 2 of § 58.1-638; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund as established in subdivision A 3 of § 58.1-638; and an aggregate of 14.7 percent shall be set aside as the Commonwealth Mass Transit Fund as established in subdivision A 4 of § 58.1-638. Beginning with the Commonwealth's 2012-2013 fiscal year through the Commonwealth's 2016-2017 fiscal year, each fiscal year from the funds becoming part of the Transportation Trust Fund pursuant to subdivision 2 of § 33.2-1524 the Comptroller shall transfer \$9.5 million to the Commonwealth Space Flight Fund as established in subdivision A 3a of § 58.1-638. The remaining funds deposited into or held in the Transportation Trust Fund pursuant to subdivision 2 of § 33.2-1524, together with funds deposited pursuant to subdivisions 1 and 4 of § 33.2-1524, shall be expended for capital improvements, including construction, reconstruction, maintenance, and improvements of highways according to the provisions of subsection C or D of § 33.2-358 or to secure bonds issued for such purposes, as provided by the Board and the General Assembly.

§ 33.2-1529. Toll Facilities Revolving Account.

A. All definitions of terms in this section shall be as set forth in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.).

B. Subject to any obligations to existing bondholders, but notwithstanding §§ 2.2-1806 and 58.1-13, funds deposited into the Transportation Trust Fund pursuant to subdivision 3 of § 33.2-1524 shall be held in a separate subaccount to be designated the Toll Facilities Revolving Account; (the Account) ~~together with all interest, dividends, and appreciation that accrue to the Transportation Trust Fund and that are not otherwise specifically directed by law or reserved by the Board in the resolution authorizing issuance of bonds to finance toll facilities.~~ In addition, any funds received from the federal government or any agency or instrumentality thereof that, pursuant to federal law, may be made available, as loans or otherwise, to private persons or entities for transportation purposes, hereinafter referred to as "federal funds," shall be deposited in a segregated subaccount within the Account. Payments received with respect to any loan made from such segregated subaccount pursuant to subdivision D 2 shall also be deposited into such segregated subaccount in the Account.

C. User fees collected in excess of the annual debt service, operations, and maintenance expenses and necessary administrative costs including any obligations to the Account and any other obligations for qualifying facilities with respect to which an agency of the Commonwealth is the responsible public entity shall be deposited and held in the Regional Toll Facilities Revolving Subaccount, (the Regional Account), together with all interest, dividends, and appreciation for use within the metropolitan planning organization region within which the facility exists. Payments received with respect to any loan made from such Regional Account pursuant to subdivision D 3 shall also be deposited into the Regional Account.

D. The Board may make allocations upon such terms and subject to such conditions as the Board deems appropriate from the following funds for the following purposes:

1. From any funds in the Account, exclusive of those in the Regional Account, to pay or finance all or part of the costs, including the cost of planning, operation, maintenance, and improvements, incurred in connection with the acquisition and construction of projects financed in whole or in part as toll facilities or to refinance existing toll facilities, provided that any such funds allocated from the Account for a planned or operating toll facility shall be considered as an advance of funding for which the Account shall be reimbursed;

2. From funds in the segregated subaccount in the Account into which federal funds are deposited in conjunction with the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) and pursuant to the

terms of a comprehensive agreement between a responsible public entity and a private operator as provided for in that act:

a. To make a loan to such operator to pay any cost of a qualifying transportation facility, provided that (i) the operator's return on its investment is limited to a reasonable rate and (ii) such loan is limited to a reasonable term; or

b. To pay the Commonwealth's or its agency's portion of costs incurred or to be incurred in accordance with a comprehensive agreement with respect to a transportation facility;

3. From funds in the Regional Account:

a. To pay or finance all or part of the costs, including the cost of planning, operation, maintenance, and improvements incurred in connection with the acquisition and construction of projects financed in whole or in part as toll facilities or to refinance existing toll facilities, provided that (i) allocations from the Regional Account shall be limited to projects located within the same metropolitan planning organization region as the facility that generated the excess revenue and (ii) any such funds allocated from the Regional Account for a planned or operating toll facility shall be considered as an advance of funding for which the Regional Account shall be reimbursed; or

b. To pay the Commonwealth's, its agency's, or its political subdivision's costs incurred or to be incurred in accordance with a comprehensive agreement with respect to a transportation facility within the same metropolitan planning organization region as the facility that generated the excess revenue; and

4. From any funds in the Account or Regional Account, to pay the Board's reasonable costs and expenses incurred in (i) the administration and management of the Account, (ii) its program of financing or refinancing costs of toll facilities, and (iii) the making of loans and paying of costs described in subdivisions 1 and 2.

E. The Board may transfer from the Account to the Transportation Trust Fund for allocation pursuant to ~~subsection E of § 33.2-358 or the Virginia Transportation Infrastructure Bank pursuant to Article 1 (§ 33.2-1500 et seq.)~~ any interest revenues and, subject to applicable federal limitations, federal funds not committed by the Board to the purposes provided for in subsection D.

F. The provisions of this section shall be liberally construed to the end that its beneficial purposes may be effectuated. Insofar as this provision is inconsistent with the provisions of any other general, special, or local law, this provision shall be controlling.

G. If any provision of this section or the application thereof to any person or circumstances is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

§ 33.2-1529.1. Transportation Partnership Opportunity Fund.

A. *There is hereby created the Transportation Partnership Opportunity Fund (the Fund) to be used by the Governor to provide funds to address the transportation aspects of economic development opportunities. The Fund shall consist of (i) one-third of all interest, dividends, and appreciation that may accrue to the Transportation Trust Fund and the Highway Maintenance and Operating Fund and (ii) any funds appropriated to it by the general appropriation act and revenue from any other source, public or private. The Fund shall be established on the books of the Comptroller, and any funds remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. All interest and dividends that are earned on the Fund shall be credited to the Fund. The Governor shall report to the Chairmen of the House Committees on Appropriations, Finance, and Transportation and the Senate Committees on Finance and Transportation as funds are awarded in accordance with this section.*

B. *The Fund shall be a subfund of the Transportation Trust Fund. Provisions of this title and Title 58.1 relating to the allocations or disbursements of proceeds of the Commonwealth Transportation Fund, the Transportation Trust Fund, or the Highway Maintenance and Operating Fund shall not apply to the Fund.*

C. *Funds shall be awarded from the Fund by the Governor as grants, revolving loans, or other financing tools and equity contributions to an agency or political subdivision of the Commonwealth. Loans shall be approved by the Governor and made in accordance with procedures established by the Board and approved by the Comptroller. Loans shall be interest-free and shall be repaid to the Fund. The Governor may establish the duration of any loan, but such term shall not exceed seven years. The Department shall be responsible for monitoring repayment of such loans and reporting the receivables to the Comptroller as required.*

D. *Grants or revolving loans may be used for transportation capacity development on and off site; road, rail, mass transit, or other transportation access costs beyond the funding capability of existing programs; studies of transportation projects, including environmental analysis, geotechnical assessment, survey, design and engineering, advance right-of-way acquisition, traffic analysis, toll sensitivity studies, and financial analysis; or anything else permitted by law. Funds may be used for any transportation project or any transportation facility. Any transportation infrastructure completed with moneys from the Fund shall not become private property, and the results of any studies or analysis completed as a result of a grant or loan from the Fund shall be property of the Commonwealth.*

E. The Board, in consultation with the Secretary of Transportation and the Secretary of Commerce and Trade, shall develop guidelines and criteria that shall be used in awarding grants or making loans from the Fund; however, no grant shall exceed \$5 million and no loan shall exceed \$30 million. No grant or loan shall be awarded until the Governor has provided copies of the guidelines and criteria to the Chairmen of the House Committees on Appropriations, Finance, and Transportation and the Senate Committees on Finance and Transportation. The guidelines and criteria shall include provisions including the number of jobs and amounts of investment that must be committed in the event moneys are being used for an economic development project, a statement of how the studies and analysis to be completed using moneys from the Fund will advance the development of a transportation facility, a process for the application for and review of grant and loan requests, a timeframe for completion of any work, the comparative benefit resulting from the development of a transportation project, assessment of the ability of the recipient to repay any loan funds, and other criteria as necessary to support the timely development of transportation projects. The criteria shall also include incentives to encourage matching funds from any other local, federal, or private source.

F. Within 30 days of each six-month period ending June 30 and December 31, the Governor shall provide a report to the Chairmen of the House Committees on Appropriations, Finance, and Transportation and the Senate Committees on Finance and Transportation that shall include the following information: the locality in which the project is being developed, the amount of the grant or loan made or committed from the Fund and the purpose for which it will be used, the number of jobs created or projected to be created, and the amount of a company's investment in the Commonwealth if the project is part of an economic development opportunity.

G. The Governor shall provide grants and commitments from the Fund in an amount not to exceed the total value of the moneys contained in the Fund. If the Governor commits funds for years beyond the fiscal years covered under the existing appropriation act, the State Treasurer shall set aside and reserve the funds the Governor has committed, and the funds set aside and reserved shall remain in the Fund for those future fiscal years. No grant or loan shall be payable in the years beyond the existing appropriation act unless the funds are currently available in the Fund.

§ 33.2-1530. Highway Maintenance and Operating Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Highway Maintenance and Operating Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. Any moneys remaining in the Fund at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

The sources of funds for the Fund shall be paid into the state treasury and credited to the Fund and, in addition to all funds appropriated by the General Assembly, includes the following:

1. Revenues generated pursuant to § 33.2-213;
2. Civil penalties collected pursuant to § 33.2-216;
3. Civil penalties collected pursuant to § 33.2-1224;
4. Civil penalties collected pursuant to § 33.2-1229;
5. Permit fees as outlined in § 46.2-652.1;
6. Revenues generated pursuant to § 46.2-702.1;
7. Permit fees pursuant to §§ 46.2-1128, 46.2-1140.1, 46.2-1142.1, 46.2-1143, 46.2-1148, and 46.2-1149.1;
8. Applicable portions of emissions inspection fees from on-road emissions inspectors as designated in § 46.2-1182;
9. Revenues from subsection G of § 58.1-638 and § 58.1-638.3;
10. ~~Revenues from subdivision 2 of § 58.1-815.4;~~
- ~~11.~~ 11. Revenues generated pursuant to subsection B of § 58.1-2249;
- ~~12.~~ 11. Revenues as apportioned in subsection E of § 58.1-2289;
- ~~13.~~ 12. Revenues as outlined in subsection A of § 58.1-2425; and
- ~~14.~~ 13. Taxes and fees pursuant to § 58.1-2701.

§ 33.2-1531. Innovation and Technology Transportation Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Innovation and Technology Transportation Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. The amount allocated to the Fund pursuant to ~~subsection C of § 33.2-358 and § 33.2-370~~ and any funds as may be appropriated by the General Assembly shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of funding pilot programs and fully developed initiatives pertaining to high-tech infrastructure improvements. 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 Secretary of Transportation. "High-tech infrastructure improvements" means those projects or programs identified by the Board that reduce congestion, improve mobility, improve safety, provide up-to-date travel data, or improve emergency response. No

later than November 30 each year, the Commissioner of Highways shall report in writing to the Governor and General Assembly on the use of moneys in the Fund.

§ 33.2-2400. Northern Virginia Transportation District Fund.

A. There is hereby created in the Department of the Treasury a special nonreverting fund that shall be a part of the Transportation Trust Fund and that shall be known as the Northern Virginia Transportation District Fund, referred to in this chapter as "the Fund," consisting of transfers pursuant to § 58.1-816 of annual collections of the state recordation taxes attributable to the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park and the Counties of Arlington, Fairfax, Loudoun, and Prince William; however, this dedication shall not affect the local recordation taxes under subsection B of § 58.1-802 and § 58.1-814. The Fund shall also include any public rights-of-way use fees appropriated by the General Assembly; any state or local revenues, including any funds distributed pursuant to ~~§ 33.2-362, 33.2-364, or 33.2-366~~, that may be deposited into the Fund pursuant to a contract between a jurisdiction participating in the Northern Virginia Transportation District Program and the Commonwealth Transportation Board; and any other funds as may be appropriated by the General Assembly and designated for the Fund and all interest, dividends, and appreciation that may accrue thereto. Any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund, but shall remain in the Fund, subject to the determination by the Commonwealth Transportation Board that a Category 2, 3, or 4 project may be funded.

B. Allocations from the Fund may be paid (i) to any authority, locality, or commission for the purposes of paying the costs of the Northern Virginia Transportation District Program, which consists of the following: the Fairfax County Parkway, the Route 234 Bypass, Metrorail capital improvements attributable to Fairfax County including Metro parking expansions, Metrorail capital improvements including the Franconia-Springfield Metrorail Station and new rail car purchases, the Route 7 improvements in Loudoun County and Fairfax County, the Route 50/Courthouse Road interchange improvements in Arlington County, the Route 28/Route 625 interchange improvements in Loudoun County, Metrorail capital improvements attributable to the City of Alexandria including the King Street Metrorail Station access, Metrorail capital improvements attributable to Arlington County including Ballston Station improvements, the Route 15 safety improvements in Loudoun County, the Route 28 parallel roads in Loudoun County, the Route 28/Sterling Boulevard interchange in Loudoun County, the Route 1/Route 123 interchange improvements in Prince William County, the Lee Highway improvements in the City of Fairfax, the Route 123 improvements in Fairfax County, the Telegraph Road improvements in Fairfax County, the Route 123 Occoquan River Bridge, Gallows Road in Fairfax County, the Route 1/Route 234 interchange improvements in Prince William County, the Potomac-Rappahannock Transportation Commission bus replacement program, and the Dulles Corridor Enhanced Transit program and (ii) for Category 4 projects as provided in § 2 of the act or acts authorizing the issuance of Bonds for the Northern Virginia Transportation District Program.

C. On or before July 15, 1994, \$19 million shall be transferred to the Fund. Such transfer shall be made by the issuance of a treasury loan at no interest in the amount of \$19 million in the event such an amount is not included for the Fund in the general appropriation act enacted by the 1994 Session of the General Assembly. Such treasury loan shall be repaid from the Commonwealth's portion of the state recordation tax imposed by Chapter 8 (§ 58.1-800 et seq.) of Title 58.1 designated for the Fund by this section and § 58.1-816.

§ 58.1-638. Disposition of state sales and use tax revenue.

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

1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided in this section, to the Transportation Trust Fund as defined in § 33.2-1524. Of the funds paid to the Transportation Trust Fund, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund as provided in this section; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund as provided in this section; and an aggregate of 14.7 percent shall be set aside as the Commonwealth Mass Transit Fund as provided in this section. The Fund's share of such net revenue shall be computed as an estimate of the net revenue to be received into the state treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall be made to the Fund on the last day of each month.

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

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

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

ports within the Commonwealth.

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

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

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

Of the remaining amount:

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

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

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

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

a. The amounts allocated to the Commonwealth Space Flight Fund pursuant to § 33.2-1526 shall be allocated by the Commonwealth Transportation Board to the Board of Directors of the Virginia Commercial Space Flight Authority to be used to support the capital needs, maintenance, and operating costs of any and all facilities owned and operated by the Virginia Commercial Space Flight Authority.

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

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

a. The Commonwealth Mass Transit Fund shall be established on the books of the Comptroller and any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall be credited to the Fund. *If funds in subdivision 4 b (1) (c) or 4 b (2) (d) are allocated to the construction of a new fixed rail project, such project shall be evaluated according to the process established pursuant to subsection B of § 33.2-214.1.* Funds may be paid to any local governing body, transportation district commission, or public service corporation for the purposes hereinafter specified.

b. The amounts allocated pursuant to this section shall be used to support the operating, capital, and administrative costs of public transportation at a state share determined by the Commonwealth Transportation Board, and these amounts may be used to support the capital project costs of public transportation and ridesharing equipment, facilities, and associated costs at a state share determined by the Commonwealth Transportation Board. Capital costs may include debt service payments on local or agency transit bonds. In making these determinations, the Commonwealth Transportation Board shall confer with the Director of the Department of Rail and Public Transportation. In development of the Director's recommendation and subsequent allocation of funds by the Commonwealth Transportation Board, the Director of the Department of Rail and Public Transportation and the Commonwealth Transportation Board shall adhere to the following:

(1) For the distribution of revenues from the Commonwealth Mass Transit Fund, of those revenues generated in 2014 and thereafter, the first \$160 million in revenues or the maximum available revenues if less than \$160 million shall be distributed by the Commonwealth Transportation Board as follows:

(a) Funds for special programs, which shall include ridesharing, transportation demand management programs, experimental transit, public transportation promotion, operation studies, and technical assistance, shall not exceed 3 percent of the funds pursuant to this section and may be allocated to any local governing body, planning district commission, transportation district commission, or public transit corporation, or may be used directly by the Department of Rail and Public Transportation for the following purposes and aid of public transportation services:

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

(ii) To finance up to 80 percent of the cost of the development and implementation of projects where the purpose of such project is to enhance the provision and use of public transportation services.

(b) At least 72 percent of the funds shall be distributed to each transit property in the same proportion as its operating expenses bear to the total statewide operating expenses and shall be spent for the purposes specified in subdivision 4 b.

(c) Twenty-five percent of the funds shall be allocated and distributed utilizing a tiered approach evaluated by the Transit Service Delivery Advisory Committee along with the Director of the Department of Rail and Public Transportation and established by the Commonwealth Transportation Board for capital purposes based on asset need and anticipated state participation level and revenues. The tier distribution measures may be evaluated by the Transit Service Delivery Advisory Committee along with the Director of the Department of Rail and Public Transportation every three years and, if redefined by the Board, shall be published at least one year in advance of being applied. Funds allocated for debt service payments will be included in the tier that applies to the capital asset that is leveraged.

(d) Transfer of funds from funding categories in subdivisions 4 b (1)(a) and 4 b (1)(c) to 4 b (1)(b) shall be considered by the Commonwealth Transportation Board in times of statewide economic distress or statewide special need.

(2) The Commonwealth Transportation Board shall allocate the remaining revenues after the application of the provisions set forth in subdivision 4 b (1) generated for the Commonwealth Mass Transit Fund for 2014 and succeeding years as follows:

(a) Funds pursuant to this section shall be distributed among operating, capital, and special projects in order to respond to the needs of the transit community.

(b) Of the funds pursuant to this section, at least 72 percent shall be allocated to support operating costs of transit providers and distributed by the Commonwealth Transportation Board based on service delivery factors, based on effectiveness and efficiency, as established by the Commonwealth Transportation Board. These measures and their relative weight shall be evaluated every three years and, if redefined by the Commonwealth Transportation Board, shall be published and made available for public comment at least one year in advance of being applied. In developing the service delivery factors, the Commonwealth Transportation Board shall create for the Department of Rail and Public Transportation a Transit Service Delivery Advisory Committee, consisting of two members appointed by the Virginia Transit Association, one member appointed by the Community Transportation Association of Virginia, one member appointed by the Virginia Municipal League, one member appointed by the Virginia Association of Counties, and three members appointed by the Director of the Department of Rail and Public Transportation, to advise the Department of Rail and Public Transportation in the development of a distribution process for the funds allocated pursuant to this subdivision 4 b (2)(b) and how transit systems can incorporate these metrics in their transit development plans. The Transit Service Delivery Advisory Committee shall elect a Chair. The Department of Rail and Public Transportation shall provide administrative support to the committee. Effective July 1, 2013, the Transit Service Delivery Advisory Committee shall meet at least annually and consult with interested stakeholders and hold at least one public hearing and report its findings to the Director of the Department of Rail and Public Transportation. Prior to the Commonwealth Transportation Board approving the service delivery factors, the Director of the Department of Rail and Public Transportation along with the Chair of the Transit Service Delivery Advisory Committee shall brief the Senate Committee on Finance, the House Appropriations Committee, and the Senate and House Committees on Transportation on the findings of the Transit Service Delivery Advisory Committee and the Department's recommendation. Before redefining any component of the service delivery factors, the Commonwealth Transportation Board shall consult with the Director of the Department of Rail and Public Transportation, Transit Service Delivery Advisory Committee, and interested stakeholders and provide for a 45-day public comment period. Prior to approval of any amendment to the service delivery measures, the Board shall notify the aforementioned committees of the pending amendment to the service delivery factors and its content.

(c) Funds for special programs, which shall include ridesharing, transportation demand management programs, experimental transit, public transportation promotion, operation studies, and technical assistance, shall not exceed 3 percent of the funds pursuant to this section and may be allocated to any local governing body, planning district commission, transportation district commission, or public transit corporation, or may be used directly by the Department of Rail and Public Transportation for the following purposes and aid of public transportation services:

(i) To finance a program administered by the Department of Rail and Public Transportation designed

to promote the use of public transportation and ridesharing throughout Virginia.

(ii) To finance up to 80 percent of the cost of the development and implementation of projects where the purpose of such project is to enhance the provision and use of public transportation services.

(d) Of the funds pursuant to this section, 25 percent shall be allocated and distributed utilizing a tiered approach evaluated by the Transit Service Delivery Advisory Committee along with the Director of Rail and Public Transportation and established by the Commonwealth Transportation Board for capital purposes based on asset need and anticipated state participation level and revenues. The tier distribution measures may be evaluated by the Transit Service Delivery Advisory Committee along with the Director of Rail and Public Transportation every three years and, if redefined by the Board, shall be published at least one year in advance of being applied. Funds allocated for debt service payments shall be included in the tier that applies to the capital asset that is leveraged.

(e) Transfer of funds from funding categories in subdivisions 4 b (2)(c) and 4 b (2)(d) to 4 b (2)(b) shall be considered by the Commonwealth Transportation Board in times of statewide economic distress or statewide special need.

(f) The Department of Rail and Public Transportation may reserve a balance of up to five percent of the Commonwealth Mass Transit Fund revenues under this subsection in order to assure better stability in providing operating and capital funding to transit entities from year to year.

(3) The Commonwealth Mass Transit Fund shall not be allocated without requiring a local match from the recipient.

c. There is hereby created in the Department of the Treasury a special nonreverting fund known as the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be established on the books of the Comptroller and consist of such moneys as are appropriated to it by the General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given, bequeathed, granted, or otherwise made available to the Commonwealth Transit Capital Fund. Any funds remaining in the Commonwealth Transit Capital Fund at the end of the biennium shall not revert to the general fund, but shall remain in the Commonwealth Transit Capital Fund. Interest earned on funds within the Commonwealth Transit Capital Fund shall remain in and be credited to the Commonwealth Transit Capital Fund. Proceeds of the Commonwealth Transit Capital Fund may be paid to any political subdivision, another public entity created by an act of the General Assembly, or a private entity as defined in § 33.2-1800 and for purposes as enumerated in subdivision 7 of § 33.2-1701 or expended by the Department of Rail and Public Transportation for the purposes specified in this subdivision. Revenues of the Commonwealth Transit Capital Fund shall be used to support capital expenditures involving the establishment, improvement, or expansion of public transportation services through specific projects approved by the Commonwealth Transportation Board. *If revenues of the Commonwealth Transit Capital Fund are allocated to the construction of a new fixed rail project, such project shall be evaluated according to the process established pursuant to subsection B of § 33.2-214.1.* The Commonwealth Transit Capital Fund shall not be allocated without requiring a local match from the recipient.

d. The Commonwealth Transportation Board may allocate up to three and one-half percent of the funds set aside for the Commonwealth Mass Transit Fund to support costs of project development, project administration, and project compliance incurred by the Department of Rail and Public Transportation in implementing rail, public transportation, and congestion management grants and programs.

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

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

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

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

6. Notwithstanding any other provision of law, funds allocated to Metro may be disbursed by the Department of Rail and Public Transportation directly to Metro or to any other transportation entity that has an agreement to provide funding to Metro.

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

C. The localities' share of the net revenue distributable under this section among the counties and cities shall be apportioned by the Comptroller and distributed among them by warrants of the Comptroller drawn on the Treasurer of Virginia as soon as practicable after the close of each month

during which the net revenue was received into the state treasury. The distribution of the localities' share of such net revenue shall be computed with respect to the net revenue received into the state treasury during each month, and such distribution shall be made as soon as practicable after the close of each such month.

D. The net revenue so distributable among the counties and cities shall be apportioned and distributed upon the basis of the latest yearly estimate of the population of cities and counties ages five to 19, provided by the Weldon Cooper Center for Public Service of the University of Virginia. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for persons who are domiciled in orphanages or charitable institutions or who are dependents living on any federal military or naval reservation or other federal property within the school division in which the institutions or federal military or naval reservation or other federal property is located. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for members of the military services who are under 20 years of age within the school division in which the parents or guardians of such persons legally reside. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for individuals receiving services in state hospitals, state training centers, or mental health facilities, persons who are confined in state or federal correctional institutions, or persons who attend the Virginia School for the Deaf and the Blind within the school division in which the parents or guardians of such persons legally reside. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for persons who attend institutions of higher education within the school division in which the student's parents or guardians legally reside. To such estimate, the Department of Education shall add the population of students with disabilities, ages two through four and 20 through 21, as provided to the Department of Education by school divisions. The revenue so apportionable and distributable is hereby appropriated to the several counties and cities for maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the operation of the public schools, which shall be considered as funds raised from local resources. In any county, however, wherein is situated any incorporated town constituting a school division, the county treasurer shall pay into the town treasury for maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the operation of the public schools, the proper proportionate amount received by him in the ratio that the school population of such town bears to the school population of the entire county. If the school population of any city or of any town constituting a school division is increased by the annexation of territory since the last estimate of school population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school population of such city or town as shown by the last such estimate and a proper reduction made in the school population of the county or counties from which the annexed territory was acquired.

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

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

2. Beginning July 1, 2013, of the remaining sales and use tax revenue, an amount equal to the revenue generated by a 0.125 percent sales and use tax shall be distributed to the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund established under § 58.1-638.1, and be used for the state's share of Standards of Quality basic aid payments.

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

G. (Contingent expiration date) Beginning July 1, 2013, of the remaining sales and use tax revenue, an amount equal to the following percentages of the revenue generated by a one-half percent sales and use tax, such as that paid to the Transportation Trust Fund as provided in subdivision A 1, shall be paid to the Highway Maintenance and Operating Fund established pursuant to § 33.2-1530:

1. For fiscal year 2014, an amount equal to 10 percent;
2. For fiscal year 2015, an amount equal to 20 percent;
3. For fiscal year 2016, an amount equal to 30 percent; and
4. For fiscal year 2017 and thereafter, an amount equal to 35 percent.

The Highway Maintenance and Operating Fund's share of the net revenue distributable under this subsection shall be computed as an estimate of the net revenue to be received into the state treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall be made to the Fund on the last day of each month.

H. (Contingent expiration date) 1. The additional revenue generated by increases in the state sales and use tax from Planning District 8 pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614 shall be deposited by the Comptroller in the fund established under § 33.2-2509.

2. The additional revenue generated by increases in the state sales and use tax from Planning District 23 pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614 shall be deposited by the Comptroller in the fund established under § 33.2-2600.

3. The additional revenue generated by increases in the state sales and use tax in any other Planning District pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614 shall be deposited into special funds that shall be established by appropriate legislation.

4. The net revenues distributable under this subsection shall be computed as an estimate of the net revenue to be received by the state treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall be made to the appropriate funds on the last day of each month.

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

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

§ 58.1-815.4. (Contingent expiration) Distribution of recordation tax for certain transportation-related purposes.

~~Effective July 1, 2008, of~~ *Of* the state recordation taxes imposed pursuant to §§ 58.1-801 and 58.1-803, the revenues collected each fiscal year from \$0.03 of the total tax imposed under each section shall be deposited by the Comptroller as follows:

1. The revenues collected from \$0.02 of the total tax shall be deposited into the Commonwealth Mass Transit Fund pursuant to subdivision A 4 b (1) (b) of § 58.1-638; and

2. The revenues collected from \$0.01 of the total tax shall be deposited into the ~~Highway Maintenance and Operating Fund established pursuant to § 33.2-1530~~ *Commonwealth Transit Capital Fund established pursuant to subdivision A 4 c of § 58.1-638.*

§ 58.1-1741. Disposition of revenues.

A. After the direct costs of administering this article are recovered by the Department of Taxation, the remaining revenues collected hereunder by the Tax Commissioner shall be forthwith paid into the state treasury. Except as otherwise provided in this section, these funds shall constitute special funds within the Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for use in subsequent years for the purposes set forth in this article, and any interest income on such funds shall accrue to these funds. The revenue so derived, after refunds have been deducted, is hereby allocated for the construction, reconstruction, and maintenance of highways and the regulation of traffic thereon and for no other purpose. However, (i) all funds collected from the additional tax imposed by subdivision A 2 of § 58.1-1736 on the rental of daily rental vehicles shall be distributed quarterly to the county, city, or town wherein such vehicle was delivered to the rentee; (ii) except as provided in clause (iii) ~~of this sentence~~, an amount equivalent to the net additional revenues from the motor vehicle rental tax generated by enactments of the 1986 Special Session of the Virginia General Assembly which amended §§ 46.2-694, 46.2-697, and by §§ 58.1-1735, 58.1-1736 and this section, shall be distributed to and paid into the Transportation Trust Fund established pursuant to § 33.2-1524, a special fund within the Commonwealth Transportation Fund, and are hereby appropriated to the Commonwealth Transportation Board for transportation needs; (iii) all moneys collected from the tax on the gross proceeds from the rental in Virginia of any motor vehicle pursuant to subdivision A 1 of § 58.1-1736 at the tax rate in effect on December 31, 1986, shall be paid by the Tax Commissioner

into the state treasury and *two-thirds of which* shall be paid into the Rail Enhancement Fund established by § 33.2-1601 and *one-third of which shall be deposited into the Transportation Trust Fund established pursuant to § 33.2-1524 and set aside for state of good repair purposes pursuant to § 33.2-369*; and (iv) all additional revenues resulting from the fee imposed under subdivision A 3 of § 58.1-1736 shall be used to pay the debt service on the bonds issued by the Virginia Public Building Authority for the Statewide Agencies Radio System (STARS) for the Department of State Police pursuant to the authority granted by the 2004 Session of the General Assembly.

B. As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation Trust Fund pursuant to clause (ii) of subsection A of ~~this section~~, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund; and an aggregate of 14.7 percent shall be set aside as the Commonwealth Mass Transit Fund.

§ 58.1-2289. Disposition of tax revenue generally.

A. Unless otherwise provided in this section, all taxes and fees, including civil penalties, collected by the Commissioner pursuant to this chapter, less a reasonable amount to be allocated for refunds, shall be promptly paid into the state treasury and shall constitute special funds within the Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds shall accrue to these funds.

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

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

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

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

From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for the propelling of watercraft, after deduction for lawful refunds, there shall be paid into the state treasury for use by the Marine Resources Commission, the Virginia Soil and Water Conservation Board, the State Water Control Board, and the Commonwealth Transportation Board to (i) improve the public docks as specified in this section, (ii) improve commercial and sports fisheries in Virginia's tidal waters, (iii) make environmental improvements including, without limitation, fisheries management and habitat enhancement in the Chesapeake and its tributaries, and (iv) further the purposes set forth in § 33.2-1510, a sum as established by the General Assembly.

E. Of the remaining revenues deposited into the Commonwealth Transportation Fund pursuant to this chapter less refunds authorized by this chapter: (i) 80 percent shall be deposited into the Highway Maintenance and Operating Fund established pursuant to § 33.2-1530, (ii) ~~45~~ 11.3 percent shall be deposited into the Transportation Trust Fund established pursuant to § 33.2-1524, (iii) four percent shall be deposited into the Priority Transportation Fund, ~~and~~ (iv) 3.11 percent shall be deposited into the Commonwealth Transit Capital Fund established pursuant to subdivision A 4 c of § 58.1-638, (v) one percent shall be transferred to a special fund within the Commonwealth Transportation Fund in the state

treasury, to be used to meet the necessary expenses of the Department of Motor Vehicles, (vi) 0.35 of one percent shall be deposited into the Commonwealth Mass Transit Fund established pursuant to subdivision A 4 of § 58.1-638 and allocated to subdivision A 4 b (1) (b), and (vii) 0.24 of one percent shall be deposited into the Commonwealth Mass Transit Fund established pursuant to subdivision A 4 of § 58.1-638 and allocated to subdivision A 4 b (1) (a).

2. That the Commonwealth Transportation Board shall develop the priority ranking system pursuant to § 33.2-369 as added by this act by July 1, 2016.

3. That the provisions of this act amending §§ 33.2-200, 33.2-1530, 58.1-815.4, 58.1-1741, and 58.1-2289 of the Code of Virginia shall become effective on July 1, 2016.

4. That the provisions of this act amending § 33.2-1510 shall become effective on July 1, 2020.

5. That §§ 33.2-361, 33.2-362, and 33.2-364 of the Code of Virginia are repealed.

6. That § 33.2-348 of the Code of Virginia is repealed effective July 1, 2016.

7. That the repeal of §§ 33.2-348, 33.2-361, 33.2-362, and 33.2-364 of the Code of Virginia shall not affect the expenditure of funds that are allocated pursuant to those sections by July 1, 2016.

8. That the provisions of this act amending §§ 33.2-214 and 33.2-214.1 of the Code of Virginia shall not affect the expenditure of funds that are allocated by July 1, 2016.

9. That Article 2 (§ 33.2-1508) of Chapter 15 of Title 33.2 of the Code of Virginia is repealed and that such repeal shall not affect the validity, enforceability, or legality of any loan agreement or other contract, or any right established or accrued under such loan agreement or contract, that existed prior to such repeal.

10. That prior to January 1, 2018, the Department of Rail and Public Transportation is authorized to enter into an agreement with a private entity pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq. of the Code of Virginia) to improve passenger rail service within the Commonwealth wherein the private entity finances the improvements in return for annual payments from funds allocated by the Commonwealth Transportation Board pursuant to §§ 33.2-1601 and 33.2-1603 of the Code of Virginia for a period not to exceed 20 years, provided that such annual payments shall be apportioned by the Commonwealth Transportation Board between the Intercity Passenger Rail Operating and Capital Fund and the Rail Enhancement Fund on the basis of the annual revenues of and proportional benefit incurred to each fund.

11. That the Commonwealth Transportation Board shall develop no later than December 1, 2015, a legislative proposal to revise the public benefit requirements of the Rail Enhancement Fund established pursuant to § 33.2-1601 of the Code of Virginia.

12. That the provisions of this act amending §§ 33.2-1530, 58.1-815.4, 58.1-1741, and 58.1-2289 of the Code of Virginia shall expire if the Commonwealth collects sales and use tax from remote retailers on sales made into the Commonwealth pursuant to legislation enacted by the federal government that grants states that meet minimum simplification requirements specified in such legislation the authority to compel remote retailers to collect sales and use tax on sales made into the respective state.