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**SENATE BILL NO. 856**

Offered January 17, 2018

A *BILL to amend and reenact §§ 33.2-1907, 33.2-2510, 33.2-2511, 33.2-2512, 58.1-638, 58.1-802.2, 58.1-815.4, as it is currently effective, 58.1-1742, 58.1-2289, as it is currently effective, 58.1-2292, and 58.1-2295, as it is currently effective, of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 33.2-214.3, 33.2-365.1, and 33.2-1526.1, relating to mass transit in the Commonwealth; Commonwealth Transit Capital Bond Act of 2018.*

Patrons—Saslaw, Ebbin and Favola; Delegate: Ayala

Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 33.2-1907, 33.2-2510, 33.2-2511, 33.2-2512, 58.1-638, 58.1-802.2, 58.1-815.4, as it is currently effective, 58.1-1742, 58.1-2289, as it is currently effective, 58.1-2292, and 58.1-2295, as it is currently effective, of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 33.2-214.3, 33.2-365.1, and 33.2-1526.1 as follows:

**§ 33.2-214.3. Statewide prioritization for the Commonwealth Mass Transit Fund; capital purposes.**

A. The Board shall develop a prioritization process for the use of funds allocated pursuant to subdivision C 1 of § 33.2-1526.1. Such prioritization process shall be used for the development of the Six-Year Improvement Program adopted annually by the Board pursuant to § 33.2-214. There shall be a separate prioritization process for state of good repair projects and major expansion projects. The prioritization process shall, for state of good repair projects, be based upon federal requirements for Transit Asset Management pursuant to 49 U.S.C. § 5326. The prioritization process shall, for major expansion projects, be based on an objective and quantifiable analysis that considers the following factors relative to the cost of a major expansion project: congestion mitigation, economic development, accessibility, safety, environmental quality, and land use.

B. The 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 subdivisions C 1 and 2 of § 33.2-1526.1 and how transit systems can incorporate these metrics in their transit development plans. The Transit Service Delivery Advisory Committee shall elect a chairman from among its membership. The Department of Rail and Public Transportation shall provide administrative support to the committee. 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 Board approving the service delivery factors, the Director of the Department of Rail and Public Transportation along with the chairman 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 Board shall consult with the Director of the Department of Rail and Public Transportation, the Transit Service Delivery Advisory Committee, and interested stakeholders and provide for a 45-day public comment period.

**§ 33.2-365.1. 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, for transit capital as further described in subdivision A 4 c of § 58.1-638.

**§ 33.2-1526.1. Use of the Commonwealth Mass Transit Fund.**

A. All funds deposited pursuant to §§ 58.1-638, 58.1-638.3, and 58.1-2289 into the Commonwealth Mass Transit Fund (the Fund), established pursuant to subdivision A 4 of § 58.1-638, shall be allocated as set forth in this section.

B. The Board may establish policies for the implementation of this section, including the determination of the state share of operating, capital, and administrative costs related to mass transit.

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59 For purposes of this section, capital costs may include debt service payments on local or agency transit  
60 bonds. Funds may be paid to any local governing body, transportation district commission, or public  
61 service corporation for the purposes as set forth in this section. No funds from the Fund shall be  
62 allocated without a local match from the recipient.

63 C. Each year the Director of the Department of Rail and Public Transportation shall make  
64 recommendations to the Board for the allocation of funds from the Fund. Such recommendations, and  
65 the final allocations approved by the Board, shall adhere to the following:

66 1. At least 31 percent of the funds shall be allocated to support operating costs of transit providers  
67 and shall be distributed by the Board as follows: (i) the first \$54 million of such funds shall be  
68 distributed to each transit property in the same proportion as its operating expenses bear to the total  
69 statewide operating expenses and shall be spent for purposes deemed to be eligible by the Board and  
70 (ii) the remaining amount of such funds shall be allocated to support operating costs of transit providers  
71 and shall be distributed by the Board on the basis of service delivery factors, based on effectiveness and  
72 efficiency, as established by the Board. Such measures and their relative weight shall be evaluated every  
73 three years and, if redefined by the Board, shall be published and made available for public comment at  
74 least one year in advance of being applied. The Washington Metropolitan Area Transit Authority  
75 (WMATA) shall not be eligible for an allocation of funds pursuant to this subdivision.

76 2. Twelve and one-half percent of the funds shall be allocated for capital purposes and distributed  
77 utilizing the transit capital prioritization process established by the Board pursuant to § 33.2-214.3. The  
78 Washington Metro Area Transit Authority shall not be eligible for an allocation of funds pursuant to  
79 this subdivision.

80 3. Fifty-three and one-half percent of the funds shall be allocated to the Northern Virginia  
81 Transportation Commission for distribution to WMATA for capital purposes and operating assistance, as  
82 determined by the Commission.

83 4. Three percent of the funds shall be allocated for special programs, including ridesharing,  
84 transportation demand management programs, experimental transit, public transportation promotion,  
85 operation studies, and technical assistance, and may be allocated to any local governing body, planning  
86 district commission, transportation district commission, or public transit corporation. Remaining funds  
87 may also be used directly by the Department of Rail and Public Transportation to (i) finance a program  
88 administered by the Department of Rail and Public Transportation designed to promote the use of  
89 public transportation and ridesharing throughout the Commonwealth or (ii) finance up to 80 percent of  
90 the cost of development and implementation of projects with a purpose of enhancing the provision and  
91 use of public transportation services.

92 D. The Board may consider the transfer of funds from subdivisions C 2 and 4 to subdivision C 1 in  
93 times of statewide economic distress or statewide special need.

94 E. The Department of Rail and Public Transportation may reserve a balance of up to five percent of  
95 the Fund revenues in order to ensure stability in providing operating and capital funding to transit  
96 entities from year to year.

97 F. The Board may allocate up to 3.5 percent of the funds set aside for the Fund to support costs of  
98 project development, project administration, and project compliance incurred by the Department of Rail  
99 and Public Transportation in implementing rail, public transportation, and congestion management  
100 grants and programs.

101 G. Funds allocated to the Northern Virginia Transportation Commission (NVTC) for WMATA  
102 pursuant to subdivision C 3 shall be credited to the Counties of Arlington and Fairfax and the Cities of  
103 Alexandria, Fairfax, and Falls Church. Beginning in the fiscal year when service starts on Phase II of  
104 the Silver Line, such funds shall also be credited to Loudoun County. Funds allocated pursuant to this  
105 subsection shall be credited as follows:

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

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

113 H. Appropriations from the Fund are intended to provide a stable and reliable source of revenue, as  
114 defined by P.L. 96-184.

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

118 **§ 33.2-1907. Members of transportation district commissions.**

119 A. Any transportation district commission created pursuant to this chapter shall consist of the number  
120 of members the component governments shall agree upon, or as may otherwise be provided by law. The

governing body of each participating county and city shall appoint from among its members the number of commissioners to which the county or city is entitled; however, for those commissions with powers as set forth in subsection A of § 33.2-1915, the governing body of each participating county or city is not limited to appointing commissioners from among its members. In addition, the governing body may appoint, from its number or otherwise, designated alternate members for those appointed to the commission who shall be able to exercise all of the powers and duties of a commission member when the regular member is absent from commission meetings. Each such appointee shall serve at the pleasure of the appointing body; however, no appointee to a commission with powers as set forth in subsection B of § 33.2-1915 may continue to serve when he is no longer a member of the appointing body. Each governing body shall inform the commission of its appointments to and removals from the commission by delivering to the commission a certified copy of the resolution making the appointment or causing the removal.

The Chairman of the Commonwealth Transportation Board, or his designee, shall be a member of each commission, ex officio with voting privileges. The Chairman of the Commonwealth Transportation Board may appoint an alternate member who may exercise all the powers and duties of the Chairman of the Commonwealth Transportation Board when neither the Chairman of the Commonwealth Transportation Board nor his designee is present at a commission meeting.

The Potomac and Rappahannock Transportation Commission shall also include two members of the House of Delegates and one member of the Senate from legislative districts located wholly or in part within the boundaries of the transportation district. The members of the House of Delegates shall be appointed by the Speaker of the House for terms coincident with their terms of office, and the member of the Senate shall be appointed by the Senate Committee on Rules for a term coincident with his term of office. The members of the General Assembly shall be eligible for reappointment for successive terms. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments.

The Transportation District Commission of Hampton Roads shall consist of one nonlegislative citizen member appointed by the Governor from each county and city embraced by the transportation district. However, for the gubernatorial appointments that will become effective July 1, 2016, three of the appointments shall be for initial terms of two years and three appointments shall be for terms of four years. Thereafter, all gubernatorial appointments shall be for terms of four years so as to stagger the terms of the gubernatorial appointees. The governing body of each such county or city may appoint either a member of its governing body or its county or city manager to serve as an ex officio member with voting privileges. Every such ex officio member shall be allowed to attend all meetings of the commission that other members may be required to attend. Vacancies shall be filled in the same manner as the original appointments.

B. The Secretary or his designee and ~~any appointed member~~ *the appointee* of the Northern Virginia Transportation Commission are authorized to serve as members of the board of directors of the Washington Metropolitan Area Transit Authority (§ 33.2-3100 et seq.) and while so serving the provisions of § 2.2-2800 shall not apply to such member. In appointing Virginia members of the board of directors of the Washington Metropolitan Area Transit Authority (WMATA), the Northern Virginia Transportation Commission shall include the Secretary or his designee as a principal member on the board of directors of WMATA. Any designee serving as the principal member must reside in a locality served by WMATA.

In selecting ~~from its membership those members~~ *a person* to serve on the board of directors of WMATA, the Northern Virginia Transportation Commission shall comply with the following requirements:

1. A board member shall not have been an employee of WMATA within one year of appointment to serve on the board of directors.

2. A board member shall have (i) experience in at least one of the fields of transit planning, transportation planning, or land use planning; transit or transportation management or other public sector management; engineering; finance; public safety; homeland security; human resources; or the law or (ii) knowledge of the region's transportation issues derived from working on regional transportation issue resolution.

3. A board member shall be a regular patron of the services provided by WMATA.

4. Board members shall serve a term of four years with a maximum of two consecutive terms. A board member's term or terms must coincide with his term on the body that appointed him to the Northern Virginia Transportation Commission. Any vacancy created if a board member cannot fulfill his term because his term on the appointing body has ended shall be filled for the unexpired term in the same manner as the member being replaced was appointed within 60 days of the vacancy. The initial appointments to a four-year term will be as follows: the Secretary, or his designee, for a term of four years; the second principal member for a term of three years; one alternate for a term of two years; and

the remaining alternate for a term of one year. Thereafter, board members shall be appointed for terms of four years. Service on the WMATA board of directors prior to July 1, 2012, shall not be considered in determining length of service. Any person appointed to an initial one-year or two-year term, or appointed to an unexpired term in which two years or less is remaining, shall be eligible to serve two consecutive four-year terms after serving the initial or unexpired term.

5. Members may be removed from the board of directors of WMATA if they attend fewer than three-fourths of the meetings in a calendar year; if they are conflicted due to employment at WMATA; or if they are found to be in violation of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.). If a board member is removed during a term, the vacancy shall be filled pursuant to the provisions of subdivision 4.

6. Each ~~member of person appointed by~~ the Northern Virginia Transportation Commission ~~appointed~~ to the board of directors of WMATA shall file semiannual reports with the Secretary's office beginning July 1, 2012. The reports shall include (i) the dates of attendance at WMATA board meetings, (ii) any reasons for not attending a specific meeting, and (iii) dates and attendance at other WMATA-related public events.

7. Each nonelected member of the Northern Virginia Transportation Commission appointed to the board of directors of WMATA shall be eligible to receive reasonable and necessary expenses and compensation pursuant to §§ 2.2-2813 and 2.2-2825 from the Northern Virginia Transportation Commission for attending meetings and for the performance of his official duties as a board member on that day.

Any entity that provides compensation to a WMATA board member for his service on the WMATA board shall be required to submit on July 1 of each year to the Secretary the amount of that compensation. Such letter will remain on file with the Secretary's office and be available for public review.

C. When the Northern Virginia Transportation Commission and the Potomac and Rappahannock Transportation Commission enter into an agreement to operate a commuter railway, the agreement governing the creation of the railway shall provide that the Chairman of the Commonwealth Transportation Board or his designee shall have one vote on the oversight board for the railway. For each year in which the state contribution to the railway is greater than or equal to the highest contribution from an individual locality, the total annual subsidy as provided by the member localities used to determine vote weights shall be recalculated to include the Commonwealth contributing an amount equal to the highest contributing locality. The vote weights shall be recalculated to provide the Chairman of the Commonwealth Transportation Board or his designee the same weight as the highest contributing locality. The revised vote weights shall be used in determining the passage of motions before the oversight board.

**§ 33.2-2510. Use of certain revenues by the Authority.**

A. All moneys received by the Authority and the proceeds of bonds issued pursuant to § 33.2-2511 shall be used by the Authority solely for transportation purposes benefiting those counties and cities that are embraced by the Authority. *Any moneys used by the Authority for the capital needs of the Washington Metropolitan Area Transit Authority (WMATA) pursuant to subsection C shall be determined to have been used solely for transportation purposes benefiting those counties and cities that are embraced by the Authority, provided that such moneys are used to pay the Commonwealth's share of the capital needs of WMATA as determined in the Authority's adopted annual budget.*

B. 1. Except as provided in subdivision 2, ~~30~~ 18 percent of the revenues received by the Authority under subsection A shall be distributed on a pro rata basis, with each locality's share being the total of such fee and taxes received by the Authority that are generated or attributable to the locality divided by the total of such fee and taxes received by the Authority. Of the revenues distributed pursuant to this subsection, as determined solely by the applicable locality, such revenues shall be used for additional urban or secondary highway construction, for other capital improvements that reduce congestion, for other transportation capital improvements that have been approved by the most recent long-range transportation plan adopted by the Authority, or for public transportation purposes. None of the revenue distributed by this subsection may be used to repay debt issued before July 1, 2013. Each locality shall create a separate, special fund in which all revenues received pursuant to this subsection and from the tax imposed pursuant to § 58.1-3221.3 shall be deposited. Each locality shall provide annually to the Authority sufficient documentation as required by the Authority showing that the funds distributed under this subsection were used as required by this subsection.

2. If a locality has not deposited into its special fund (i) revenues from the tax collected under § 58.1-3221.3 pursuant to the maximum tax rate allowed under that section or (ii) an amount, from sources other than moneys received from the Authority, that is equivalent to the revenue that the locality would receive if it was imposing the maximum tax authorized by § 58.1-3221.3, then the amount of revenue distributed to the locality pursuant to subdivision 1 shall be reduced by the difference between the amount of revenue that the locality would receive if it was imposing the maximum tax authorized by

such section and the amount of revenue deposited into its special fund pursuant to clause (i) or (ii), as applicable. The amount of any such reduction in revenue shall be redistributed according to subsection C. E. The provisions of this subdivision shall be ongoing and apply over annual periods as determined by the Authority.

C. *Thirty-five percent of the revenues received by the Authority under subsection A shall be transferred directly to WMATA for capital purposes.*

D. *Five percent of the revenues received by the Authority under subsection A shall be used by the Authority solely to fund capital and operating needs of the Virginia Railway Express.*

E. 1. The remaining 42 percent of the revenues received by the Authority under subsection A, plus the amount of any revenue to be redistributed pursuant to subsection B, shall be used by the Authority solely to fund transportation projects selected by the Authority that are contained in the regional transportation plan in accordance with § 33.2-2500 and that have been rated in accordance with § 33.2-257. For only those regional funds received in fiscal year 2014, the requirement for rating in accordance with § 33.2-257 shall not apply. The Authority shall give priority to selecting projects that are expected to provide the greatest congestion reduction relative to the cost of the project and shall document this information for each project selected. Such projects selected by the Authority for funding shall be located (i) only in localities embraced by the Authority or (ii) in adjacent localities but only to the extent that such extension is an insubstantial part of the project and is essential to the viability of the project within the localities embraced by the Authority.

2. Not less than 15 days prior to any decision by the Authority for the expenditure of funds pursuant to subdivision 1 for any project to create or improve any transportation facility, the Authority shall make the following publicly available: (i) the project evaluation pursuant to § 33.2-257, (ii) the total amount of funds from the Authority to be used for the project, (iii) the total amount of funds from sources other than the Authority to be used for the project, and (iv) any other rating or scoring of other factors to be taken into account by the Authority related to each such transportation facility.

3. All transportation projects undertaken by the Authority shall be completed by private contractors accompanied by performance measurement standards, and all contracts shall contain a provision granting the Authority the option to terminate the contract if contractors do not meet such standards. Notwithstanding the foregoing, any locality may provide engineering services or right-of-way acquisition for any project with its own forces. The Authority shall avail itself of the strategies permitted under the Public-Private Transportation Act (§ 33.2-1800 et seq.) whenever feasible and advantageous. The Authority is independent of any state or local entity, including the Department and the Commonwealth Transportation Board, but the Authority, the Department, and the Commonwealth Transportation Board shall consult with one another to avoid duplication of efforts and, at the option of the Authority, may combine efforts to complete specific projects. Notwithstanding the foregoing, at the request of the Authority, the Department may provide the Authority with engineering services or right-of-way acquisition for the project with its own forces.

4. With regard to the revenues distributed under subdivision 1, each locality's total long-term benefit shall be approximately equal to the proportion of the total of the fees and taxes received by the Authority that are generated by or attributable to the locality divided by the total of such fees and taxes received by the Authority.

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

#### **§ 33.2-2511. Authority to issue bonds.**

The Authority may issue bonds and other evidences of debt as may be authorized by this section or other law. The provisions of Article 5 (§ 33.2-1920 et seq.) of Chapter 19 shall apply, mutatis mutandis, to the issuance of such bonds or other debt. The Authority may issue bonds or other debt in such amounts as it deems appropriate. The bonds may be supported by any funds available except that (i) funds from tolls collected pursuant to subdivision 7 of § 33.2-2512 shall be used only as provided in that subdivision and (ii) funds allocated pursuant to subsection C of § 33.2-2510 shall not be used to support such bonds.

#### **§ 33.2-2512. Other duties and responsibilities of Authority.**

In addition to other powers granted in this chapter, the Authority shall have the following duties and responsibilities:

1. Providing general oversight of regional programs involving mass transit or congestion mitigation, including carpooling, vanpooling, and ridesharing;
2. Providing long-range regional planning, both financially constrained and unconstrained;
3. Recommending to federal, state, and regional agencies regional transportation priorities, including public-private transportation projects and funding allocations;
4. Developing, in coordination with affected counties and cities, regional priorities and policies to

305 improve air quality;

306 5. Allocating to priority regional transportation projects funds made available to the Authority and, at  
307 the discretion of the Authority, directly overseeing such projects;

308 6. Recommending to the Commonwealth Transportation Board priority regional transportation  
309 projects for receipt of federal and state funds;

310 7. Imposing, collecting, and setting the amount of tolls for use of facilities in the area embraced by  
311 the Authority, when the facility is either newly constructed or reconstructed solely with revenues of the  
312 Authority or solely with revenues under the control of the Authority in such a way as to increase the  
313 facility's traffic capacity, with the amount of tolls variable by time of day, day of the week, vehicle size  
314 or type, number of axles, or other factors as the Authority may deem proper, and with all such tolls to  
315 be used for programs and projects that are reasonably related to or benefit the users of the applicable  
316 facility, including for the debt service and other costs of bonds whose proceeds are used for such  
317 construction or reconstruction;

318 8. Providing general oversight of regional transportation issues of a multijurisdictional nature,  
319 including intelligent transportation systems, signalization, and preparation for and response to  
320 emergencies;

321 9. Serving as an advocate for the transportation needs of Northern Virginia before the state and  
322 federal governments;

323 10. Applying to and negotiating with the government of the United States, the Commonwealth, or  
324 any agency, instrumentality, or political subdivision thereof for grants and other funds available to carry  
325 out the purposes of this chapter and receiving, holding, accepting, and administering from any source  
326 gifts, bequests, grants, aid, or contributions of money, property, labor, or other things of value to be  
327 held, used, and applied to carry out the purposes of this chapter subject, however, to any condition upon  
328 which gifts, bequests, grants, aid, or contributions are made. Unless otherwise restricted by the terms of  
329 the gift, bequest, or grant, the Authority may sell, exchange, or otherwise dispose of such money,  
330 securities, or other property given or bequeathed to it in furtherance of its purposes;

331 11. Acting as a "responsible public entity" for the purpose of the acquisition, construction,  
332 improvement, maintenance, or operation, or any combination thereof, of a "qualifying transportation  
333 facility" under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.); and

334 12. Deciding on and voting to impose certain fees and taxes authorized under law for imposition or  
335 assessment by the Authority, provided that any such fee or tax assessed or imposed is assessed or  
336 imposed in all counties and cities embraced by the Authority. The revenues from such certain fees and  
337 taxes shall be kept in a separate account and shall be used only for the purposes provided in this  
338 chapter; and

339 13. *Providing funding support for the Washington Metropolitan Area Transit Authority and the*  
340 *Virginia Railway Express.*

341 **§ 58.1-638. Disposition of state sales and use tax revenue.**

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

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

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

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

360 b. The amounts allocated pursuant to this section shall be allocated by the Commonwealth  
361 Transportation Board to the Board of Commissioners of the Virginia Port Authority to be used to  
362 support port capital needs and the preservation of existing capital needs of all ocean, river, or tributary  
363 ports within the Commonwealth. Expenditures for such capital needs are restricted to those capital  
364 projects specified in subsection B of § 62.1-132.1.

365 c. Commonwealth Port Fund revenue shall be allocated by the Board of Commissioners to the  
366 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)(e) 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 § 33.2-1526.1 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:

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

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

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

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

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

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

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

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

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

485 (c) Funds for special programs, which shall include ridesharing, transportation demand management  
486 programs; experimental transit; public transportation promotion; operation studies; and technical  
487 assistance; shall not exceed 3 percent of the funds pursuant to this section and may be allocated to any  
488 local governing body, planning district commission, transportation district commission, or public transit  
489 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)(e) 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.

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

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

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

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

607 F. 1. Of the net revenue generated from the one-half percent increase in the rate of the state sales  
608 and use tax effective August 1, 2004, pursuant to enactments of the 2004 Special Session I of the  
609 General Assembly, the Comptroller shall transfer from the general fund of the state treasury to the  
610 Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund established under  
611 § 58.1-638.1 an amount equivalent to one-half of the net revenue generated from such one-half percent  
612 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.

**§ 58.1-802.2. (Contingent expiration date) Regional congestion relief fee.**

In addition to any other tax or fee imposed under the provisions of this chapter, a fee, delineated as the "regional congestion relief fee," is hereby imposed on each deed, instrument, or writing by which lands, tenements, or other realty located in any county or city in a Planning District described in this section is sold and is granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser or any other person, by such purchaser's direction. The fee shall be imposed in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of two million or more, as shown by the most recent United States Census, has not less than 1.7 million motor vehicles registered therein, and has a total transit ridership of not less than 50 million riders per year across all transit systems within the Planning District or (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i). The rate of the fee, when the consideration or value of the interest, whichever is greater, equals or exceeds \$100, shall be ~~\$0.15~~ \$0.25 for each \$100 or fraction thereof, exclusive of the value of any lien or encumbrance remaining thereon at the time of the sale, whether such lien is assumed or the realty is sold subject to such lien or encumbrance. In any case in which the fee is imposed pursuant to clause (ii) such fee shall be effective beginning on the July 1 immediately following the calendar year in which all of the criteria under such clause have been met.

The fee imposed by this section shall be paid by the grantor, or any person who signs on behalf of

the grantor, of any deed, instrument, or writing subject to the fee imposed by this section.

No such deed, instrument, or other writing shall be admitted to record unless certification of the clerk wherein first recorded has been affixed thereto that the fee imposed pursuant to this section has been paid.

Fees imposed by this section shall be collected by the clerk of the court and deposited into the state treasury as soon as practicable. Such fees shall then be deposited into special funds established by law. In the case of Planning District 8, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2509. For additional Planning Districts that may become subject to this section, funds shall be established by appropriate legislation.

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

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 Commonwealth Mass Transit Capital Fund established pursuant to subdivision A 4 e of § 58.1-638.

**§ 58.1-1742. (Contingent expiration date) Regional transient occupancy tax.**

In addition all other fees and taxes imposed under law, there is hereby imposed an additional transient occupancy tax at the rate of ~~two~~ three percent of the amount of the charge for the occupancy of any room or space occupied in any county or city located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of two million or more, as shown by the most recent United States Census, has not less than 1.7 million motor vehicles registered therein, and has a total transit ridership of not less than 50 million riders per year across all transit systems within the Planning District or (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i). In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year in which all of the criteria have been met.

The tax imposed under this section shall be imposed only for the occupancy of any room or space that is suitable or intended for occupancy by transients for dwelling, lodging, or sleeping purposes.

The tax imposed under this section shall be administered by the locality in which the room or space is located in the same manner as it administers the tax authorized by § 58.1-3819 or 58.1-3840, mutatis mutandis, except as herein provided. The revenue generated and collected from the tax shall be deposited by the local treasurer into the state treasury pursuant to § 2.2-806 and transferred by the Comptroller into special funds established by law. In the case of Planning District 8, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2509. For additional Planning Districts that may become subject to this section, funds shall be established by appropriate legislation.

**§ 58.1-2289. (For contingent expiration) 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) 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, (iv) ~~3.44~~ 3.7 percent shall be deposited into the Commonwealth Mass Transit Capital Fund established pursuant to subdivision A 4 e of § 58.1-638, and (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).~~

#### **§ 58.1-2292. Definitions.**

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

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

"Cost price" means the same as that term is defined in § 58.1-602, and also includes all federal and state excise taxes and storage tank fees paid by the distributor. "Cost price" does not include separately stated federal diesel fuel excise taxes, unless the distributor fails to exclude the federal diesel excise tax when collecting the tax imposed pursuant to this chapter.

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

*"Diesel fuel" means the same as that term is defined in § 58.1-2201.*

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

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

*"Gasoline" means the same as that term is defined in § 58.1-2201.*

"Gross sales" means the same as that term is defined in § 58.1-602.

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

"Sale" means the same as that term is defined in § 58.1-602 and also includes the distribution of fuel by a distributor to itself as a retail dealer.

"Sales price" means the same as that term is defined in § 58.1-602 and also includes all transportation and delivery charges, regardless of whether the charges are separately stated on the

invoice. Sales price does not include separately stated federal diesel fuel excise taxes, unless the distributor fails to exclude the federal diesel excise tax when collecting the tax imposed pursuant to this chapter.

*"Wholesale price" means the same as that term is defined in § 58.1-2201.*

**§ 58.1-2295. (Contingent expiration date) Levy; payment of tax.**

A. 1. In addition to all other taxes now imposed by law, there is hereby imposed a tax upon every distributor who engages in the business of selling fuels at wholesale to retail dealers for retail sale in any county or city that is a member of (i) any transportation district in which a rapid heavy rail commuter mass transportation system operating on an exclusive right-of-way and a bus commuter mass transportation system are owned, operated, or controlled by an agency or commission as defined in § 33.2-1901 or (ii) any transportation district that is subject to subsection C of § 33.2-1915 and that is contiguous to the Northern Virginia Transportation District.

2. In addition to all other taxes now imposed by law, there is hereby imposed a tax upon every distributor who engages in the business of selling fuels at wholesale to retail dealers for retail sale in any county or city that is located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of not less than 1.5 million but fewer than two million, as shown by the most recent United States Census, has not less than 1.2 million but fewer than 1.7 million motor vehicles registered therein, and has a total transit ridership of not less than 15 million but fewer than 50 million riders per year across all transit systems within the Planning District or (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i). In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year in which all of the criteria have been met.

B. ~~The 1. Beginning July 1, 2018, the tax shall be imposed on each gallon of fuel, except for diesel fuel, sold by a distributor to a retail dealer for retail sale in any such county or city at a rate of 2.1 percent of the sales price charged by a distributor for fuels sold to a retail dealer for retail sale in any such county or city. In any such sale to a retail dealer in which the distributor and the retail dealer are the same person, the sales price charged by the distributor shall be the cost price to the distributor of the fuel statewide average wholesale price of a gallon of unleaded regular gasoline as determined by the Commissioner pursuant to subsection A of § 58.1-2217. In no case shall the average wholesale price computed for purposes of this subsection be less than the statewide average wholesale price of a gallon of unleaded regular gasoline on February 20, 2013.~~

~~2. Beginning July 1, 2018, the tax shall be imposed on each gallon of diesel fuel sold by a distributor to a retail dealer for retail sale in any such county or city at a rate of 2.1 percent of the statewide average wholesale price of a gallon of diesel fuel as determined by the Commissioner pursuant to subdivision B of § 58.1-2217. In no case shall the average wholesale price computed for purposes of this subsection be less than the statewide average wholesale price of a gallon of diesel fuel on February 20, 2013.~~

~~3. For alternative fuels other than liquid alternative fuels, the Commissioner shall determine an equivalent tax rate based upon gasoline gallon equivalency.~~

C. The tax levied under this section shall be imposed at the time of sale by the distributor to the retail dealer.

D. The tax imposed by this section shall be paid by the distributor, but the distributor shall separately state the amount of the tax and add such tax to the sales price or charge. Thereafter, such tax shall be a debt from the retail dealer to the distributor until paid and shall be recoverable at law in the same manner as other debts. No action at law or suit in equity under this chapter shall be maintained in the Commonwealth by any distributor who is not registered under § 58.1-2299.2 or is delinquent in the payment of taxes imposed under this chapter.

**2. That the Commonwealth Transportation Board is authorized to issue bonds for transit capital purposes throughout the Commonwealth as follows:**

§ 1. Title. This act shall be known and may be cited as the "Commonwealth Transit Capital Bond Act of 2018."

§ 2. The Commonwealth Transportation Board is hereby authorized, by and with the consent of the Governor, to issue, pursuant to the provisions of the Transportation Development and Revenue Bond Act (§ 33.2-1700 et seq. of the Code of Virginia) as amended from time to time, revenue obligations of the Commonwealth to be designated "Commonwealth of Virginia Transit Capital Projects Revenue Bonds, Series .." at one or more times in an aggregate principal amount not to exceed \$550 million, after all costs, provided that the aggregate principal amount issued in any one fiscal year shall not exceed \$110 million, including any premium received on the sale therefore, excluding any refunding bonds. If the aggregate principal amount issued in any fiscal year is less than \$110 million, then the amount by which such issuance is less than \$110 million may be issued in any subsequent fiscal year in addition to the \$110 million authorized in the subsequent fiscal year. The issuance of any bonds under this act is

subject to the provisions of subsection C of § 33.2-1527 of the Code of Virginia.

§ 3. The net proceeds of the bonds shall be used exclusively to support the capital project costs of public transportation and ridesharing equipment, facilities, and associated costs pursuant to subdivision A 4 c of § 58.1-638 of the Code of Virginia. Such costs may include the payment of interest on the bonds for a period during construction and not exceeding one year after completion of construction of the projects.

§ 4. The proceeds of the bonds, including any premium received on the sale thereof, shall be made available by the Commonwealth Transportation Board to pay costs of the projects and, where appropriate, may be paid to any authority, locality, commission, or other entity for the purposes of paying for costs of the projects. The proceeds of the bonds may be used together with any federal, local, or private funds that may be made available for such purpose. The proceeds of the bonds, together with any investment earnings thereon, may, at the discretion of the Commonwealth Transportation Board, secure the payment of principal or purchase price of and redemption premium, if any, and interest on the bonds.

§ 5. The terms and structure of each issue of the bonds shall be determined by the Commonwealth Transportation Board, subject to approval by the Treasury Board in accordance with § 2.2-2416 of the Code of Virginia, as amended. The bonds of each issue shall be dated; shall be issued in a principal amount (subject to the limitations set forth in § 2 and in subsection C of § 33.2-1527 of the Code of Virginia); shall bear interest at such rate or rates, which may be fixed, adjustable, variable or a combination thereof and may be determined by a formula or other method; shall mature at such time or times not exceeding 25 years from their date or dates; and may be made subject to purchase or redemption before their maturity or maturities, at such price or prices and under such terms and conditions, all as may be determined by the Commonwealth Transportation Board. The Commonwealth Transportation Board shall determine the form of the bonds, whether the bonds are certificated or uncertificated, and fix the authorized denomination or denominations of the bonds and the place or places of payment of principal or purchase price of, and redemption premium, if any, and interest on the bonds, which may be at the office of the State Treasurer or any bank or trust company within or outside the Commonwealth. The principal or purchase price of, and redemption premium, if any, and interest on the bonds shall be made payable in lawful money of the United States of America. Each issue of the bonds may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments of principal or purchase price of and redemption premium, if any, and interest on such bonds. All bonds shall have and are hereby declared to have, as between successive holders, all of the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth.

The Commonwealth Transportation Board may sell the bonds from time to time at public or private sale, by competitive bidding, negotiated sale, or private placement, for such price or prices as it may determine to be in the best interests of the Commonwealth.

§ 6. The bonds shall be signed on behalf of the Commonwealth Transportation Board by the chairman or vice-chairman of the Commonwealth Transportation Board, or shall bear the facsimile signature of such officer, and shall bear the official seal of the Commonwealth Transportation Board, which shall be attested to by the manual or facsimile signature of the secretary or assistant secretary of the Commonwealth Transportation Board. In the event that the bonds shall bear the facsimile signature of the chairman or vice-chairman of the Commonwealth Transportation Board, such bonds shall be signed by such administrative assistant as the chairman of the Commonwealth Transportation Board shall determine or by any registrar/paying agent who may be designated by the Commonwealth Transportation Board. In case any officer whose signature or a facsimile of whose signature appears on any bonds shall cease to be such officer before the delivery of such bonds, such signature or facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in office until such delivery.

§ 7. All expenses incurred under this act or in connection with the issuance of the bonds shall be paid from the proceeds of such bonds or from any available funds as the Commonwealth Transportation Board shall determine.

§ 8. The Commonwealth Transportation Board is hereby authorized to borrow money at such rate or rates through the execution and issuance of the bonds for the same, but only in the following circumstances and under the following conditions:

a. In anticipation of the sale of the bonds, the issuance of which shall have been authorized by the Commonwealth Transportation Board and shall have been approved by the Governor, if the Commonwealth Transportation Board shall deem it advisable to postpone the issuance of such bonds; or

b. For the renewal of any anticipation notes herein authorized.

§ 9. The proceeds of the bonds and of any anticipation notes herein authorized (except the proceeds of the bonds the issuance of which has been anticipated by such anticipation notes) shall be placed by

920 *the State Treasurer in a special fund in the state treasury, or may be placed with a trustee in*  
921 *accordance with § 33.2-1716 of the Code of Virginia, as amended, and shall be disbursed only for the*  
922 *purpose for which such bonds and such anticipation notes shall be issued, provided, however, that*  
923 *proceeds derived from the sale of the bonds herein authorized shall be first used in the payment of any*  
924 *anticipation notes that may have been issued in anticipation of the sale of such bonds and any renewals*  
925 *of such bonds.*

926 *§ 10. The Commonwealth Transportation Board is hereby authorized to receive any other funds that*  
927 *may be made available to pay costs of the projects and, subject to appropriation, to make available the*  
928 *same to the payment of the principal or purchase price of, and redemption premium, if any, and interest*  
929 *on the bonds authorized hereby and to enter into the appropriate agreements to allow for those funds to*  
930 *be paid into the state treasury, or to a trustee in accordance with § 33.2-1716 of the Code of Virginia,*  
931 *as amended, to pay a part of the costs of the projects or to pay principal or purchase price of, and*  
932 *redemption premium, if any, and interest on the bonds.*

933 *§ 11. The Commonwealth Transportation Board, in connection with the issuance of the bonds, shall*  
934 *establish a fund in accordance with § 33.2-1708 of the Code of Virginia, as amended, either in the state*  
935 *treasury or with a trustee in accordance with § 33.2-1716 of the Code of Virginia, as amended, which*  
936 *shall secure and be used for the payment of the bonds to the credit of which there shall be deposited*  
937 *such amounts, appropriated therefor by the General Assembly, as are required to pay principal or*  
938 *purchase price of, and redemption premium, if any, and interest on the bonds, as and when due and*  
939 *payable, (i) from the revenues deposited into the Priority Transportation Fund pursuant to § 33.2-1527;*  
940 *(ii) to the extent required, from revenues legally available from the Transportation Trust Fund; and (iii)*  
941 *to the extent required, from any legally available funds.*

942 *§ 12. Bond proceeds and moneys in any reserve funds and sinking funds in respect of the bonds shall*  
943 *be invested by the State Treasurer in accordance with the provisions of general law relating to the*  
944 *investment of such funds belonging to or in the control of the Commonwealth, or by a trustee in*  
945 *accordance with § 33.2-1716 of the Code of Virginia, as amended.*

946 *§ 13. The interest income from and any profit made on the sale of the obligations issued under the*  
947 *provisions of this act shall at all times be free and exempt from taxation by the Commonwealth and by*  
948 *any municipality, county, or other political subdivision thereof.*

949 *§ 14. All obligations issued under the provisions of this act are hereby made securities in which all*  
950 *persons and entities listed in § 33.2-1713 of the Code of Virginia, as amended, may properly and legally*  
951 *invest funds under their control.*

952 **3. That until July 1, 2021, the Northern Virginia Transportation Commission shall not make more**  
953 **than one appointment to the Board of the Washington Metropolitan Area Transit Authority, and**  
954 **such appointee shall not be an elected official. However, the Commission may appoint additional**  
955 **members to the Board in the event that the total number of appointees to the Board from entities**  
956 **other than the Commission exceeds four appointments.**

957 **4. That each county and city located in Planning District 8 on January 1, 2018, shall expend or**  
958 **disburse for transportation purposes each year an amount at least equal to the average annual**  
959 **amount expended or disbursed for transportation by the county or city, excluding bond proceeds**  
960 **or debt service payments and federal or state grants, between July 1, 2015, and June 30, 2018.**  
961 **Each county or city that is a member of the Northern Virginia Transportation Commission or the**  
962 **Potomac Rappahannock Transportation Commission as of January 1, 2018, shall expend or**  
963 **disburse for the support of the Washington Metropolitan Area Transit Authority and the Virginia**  
964 **Railway Express an amount that is at least equal to the average annual amount expended or**  
965 **disbursed for such purposes by the county or city, excluding bond proceeds or debt service**  
966 **payments and federal or state grants, between July 1, 2015, and June 30, 2018.**

967 **5. That an amount equal to the additional revenues in fiscal year 2019 attributable to § 58.1-2295,**  
968 **as it is currently effective, of the Code of Virginia as amended by this act transferred to the**  
969 **Northern Virginia Transportation Commission shall be transferred directly to the Washington**  
970 **Metropolitan Area Transit Authority for dedicated capital purposes annually.**

971 **6. That an amount equal to the additional revenues in fiscal year 2019 attributable to § 58.1-2295,**  
972 **as it is currently effective, of the Code of Virginia as amended by this act transferred to the**  
973 **Potomac Rappahannock Transportation Commission shall be transferred directly to the Virginia**  
974 **Railway Express for capital and operating needs.**

975 **7. That the provisions of this act amending §§ 33.2-2510, 58.1-638, 58.1-802.2, 58.1-1742, and**  
976 **58.1-2295, as it is currently effective, of the Code of Virginia and creating § 33.2-1526.1 of the**  
977 **Code of Virginia shall not become effective until 30 days after the District of Columbia and the**  
978 **State of Maryland each enact legislation or take actions to provide dedicated funding equal to**  
979 **their share of the \$500 million in additional capital funding for the Washington Metropolitan Area**  
980 **Transit Authority.**

981 **8. That the provisions of this act amending §§ 33.2-2510, 58.1-638, 58.1-802.2, 58.1-1742, and**



982 58.1-2295, as it is currently effective, of the Code of Virginia and creating § 33.2-1526.1 of the  
983 Code of Virginia shall expire on June 30 of any fiscal year where the District of Columbia and the  
984 State of Maryland fail to provide dedicated funding equal to their share of the \$500 million in  
985 additional capital funding for the Washington Metropolitan Area Transit Authority.  
986 9. That the Department of Rail and Public Transportation, in conjunction with the Transit Service  
987 Delivery Advisory Committee, shall develop a prioritization process as required by § 33.2-214.3 of  
988 the Code of Virginia as created by this act for the Commonwealth Transportation Board's  
989 consideration. The Board shall implement the prioritization process required by 33.2-214.3 no later  
990 than July 1, 2019, and use such process for the development of the Six-Year Improvement  
991 Program for fiscal years 2020 through 2025.

**INTRODUCED**

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