

2004 SPECIAL SESSION I

INTRODUCED

041472336

HOUSE BILL NO. 5003

Offered March 17, 2004

A BILL to amend and reenact §§ 46.2-694, 46.2-697, 46.2-698, 46.2-700, 58.1-605, 58.1-606, 58.1-628, 58.1-638, 58.1-2217, 58.1-2249, 58.1-2289, 58.1-2701, and 58.1-2706 of the Code of Virginia, and to amend the Code of Virginia by adding sections numbered 22.1-199.4 and 46.2-702.1, relating to revenues from sales taxes, motor fuels taxes and motor vehicle registration fees to be used for transportation and education.

Patron—Hull

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-694, 46.2-697, 46.2-698, 46.2-700, 58.1-605, 58.1-606, 58.1-628, 58.1-638, 58.1-2217, 58.1-2249, 58.1-2289, 58.1-2701, and 58.1-2706 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 22.1-199.4 and 46.2-702.1 as follows:

§ 22.1-199.4. At-Risk Student Achievement Grants Program and Fund.

A. From the deposits made pursuant to subdivision E 1 of § 58.1-638, and from such other funds as may be appropriated for such purpose and from such gifts, donations, grants, bequests, and other funds as may be received on its behalf, there is hereby established the At-Risk Student Academic Achievement Program, to be administered by the Board of Education, and a special nonreverting fund within the Department of the Treasury known as the At-Risk Student Academic Achievement Fund, hereafter referred to as the "Fund." The Fund shall be established on the books of the Comptroller, and any moneys 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 remain in the Fund and be credited to it.

The Department of the Treasury shall administer and manage the Fund, subject to the authority of the Board of Education to provide for its disbursement. The Fund shall be disbursed to award noncompetitive grants to public school divisions to implement programs designed to (i) improve the academic achievement of at-risk public school students on the Standards of Learning assessments; (ii) decrease the rate of dropout among at-risk public school students; and (iii) increase the number of such students obtaining the advanced studies diploma.

B. The amount of grants and required local matching funds shall be determined as provided in the appropriation act.

Funds received through this program shall be used to supplement, not supplant, any local funds currently provided for at-risk programs within the school division.

C. The Board may issue guidelines governing the Program as it deems necessary and appropriate.

§ 46.2-694. Fees for vehicles designed and used for transportation of passengers; weights used for computing fees; burden of proof.

A. The annual registration fees for motor vehicles, trailers, and semitrailers designed and used for the transportation of passengers on the highways in the Commonwealth are:

1. ~~Twenty-three~~ Thirty-three dollars for each private passenger car or motor home if the passenger car or motor home weighs 4,000 pounds or less, provided that it is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

2. ~~Twenty-eight~~ Thirty-eight dollars for each passenger car or motor home which weighs more than 4,000 pounds, provided that it is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

3. Thirty cents per 100 pounds or major fraction thereof for a private motor vehicle other than a motorcycle with a normal seating capacity of more than ten adults including the driver if the private motor vehicle is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire or is not operated under a lease without a chauffeur. In no case shall the fee be less than twenty-three dollars if the vehicle weighs 4,000 pounds or less or twenty-eight dollars if the vehicle weighs more than 4,000 pounds.

4. Thirty cents per 100 pounds or major fraction thereof for a school bus. In no case shall the fee be less than twenty-three dollars if the vehicle weighs 4,000 pounds or less or twenty-eight dollars if the vehicle weighs more than 4,000 pounds.

5. ~~Twenty-three~~ Thirty-three dollars for each trailer or semitrailer designed for use as living quarters for human beings.

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59 6. ~~Thirteen~~ *Twenty-three* dollars plus thirty cents per 100 pounds or major fraction thereof for each
60 motor vehicle, trailer, or semitrailer used as a common carrier of passengers, operating either intrastate
61 or interstate. Interstate common carriers of interstate passengers may elect to be licensed and pay the
62 fees prescribed in subdivision 7 of this subsection on submission to the Commissioner of a declaration
63 of operations and equipment as he may prescribe. An additional five dollars shall be charged if the
64 motor vehicle weighs more than 4,000 pounds.

65 7. ~~Thirteen~~ *Twenty-three* dollars plus seventy cents per 100 pounds or major fraction thereof for each
66 motor vehicle, trailer, or semitrailer used as a common carrier of interstate passengers if election is made
67 to be licensed under this subsection. An additional five dollars shall be charged if the motor vehicle
68 weighs more than 4,000 pounds. In lieu of the foregoing fee of seventy cents per 100 pounds, a motor
69 carrier of passengers, operating two or more vehicles both within and outside the Commonwealth and
70 registered for insurance purposes with the Surface Transportation Board of the United States Department
71 of Transportation, Federal Highway Administration, may apply to the Commissioner for prorated
72 registration. Upon the filing of such application, in such form as the Commissioner may prescribe, the
73 Commissioner shall apportion the registration fees provided in this subsection so that the total
74 registration fees to be paid for such vehicles of such carrier shall be that proportion of the total fees, if
75 there were no apportionment, that the total number of miles traveled by such vehicles of such carrier
76 within the Commonwealth bears to the total number of miles traveled by such vehicles within and
77 outside the Commonwealth. Such total mileage in each instance is the estimated total mileage to be
78 traveled by such vehicles during the license year for which such fees are paid, subject to the adjustment
79 in accordance with an audit to be made by representatives of the Commissioner at the end of such
80 license year, the expense of such audit to be borne by the carrier being audited. Each vehicle passing
81 into or through Virginia shall be registered and licensed in Virginia and the annual registration fee to be
82 paid for each such vehicle shall not be less than thirty-three dollars. For the purpose of determining such
83 apportioned registration fees, only those motor vehicles, trailers, or semitrailers operated both within and
84 outside the Commonwealth shall be subject to inclusion in determining the apportionment provided for
85 herein.

86 8. ~~Thirteen~~ *Twenty-three* dollars plus eighty cents per 100 pounds or major fraction thereof for each
87 motor vehicle, trailer or semitrailer kept or used for rent or for hire or operated under a lease without a
88 chauffeur for the transportation of passengers. An additional fee of five dollars shall be charged if the
89 vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as common
90 carriers.

91 9. ~~Twenty-three~~ *Thirty-three* dollars for a taxicab or other vehicle which is kept for rent or hire
92 operated with a chauffeur for the transportation of passengers, and which operates or should operate
93 under permits issued by the Department as required by law. An additional fee of five dollars shall be
94 charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used
95 as common carriers.

96 10. ~~Eighteen~~ *Twenty-eight* dollars for a motorcycle, with or without a sidecar. To this fee shall be
97 added a surcharge of three dollars which shall be distributed as provided in § 46.2-1191.

98 11. ~~Twenty-three~~ *Thirty-three* dollars for a bus used exclusively for transportation to and from
99 Sunday school or church, for the purpose of divine worship. If the empty weight of the vehicle exceeds
100 4,000 pounds, the fee shall be ~~twenty-eight~~ *thirty-three* dollars \$38.

101 12. ~~Thirteen~~ *Twenty-three* dollars plus seventy cents per 100 pounds or major fraction thereof for
102 other passenger-carrying vehicles.

103 13. An additional fee of four dollars per year shall be charged and collected at the time of
104 registration of each pickup or panel truck and each motor vehicle under subdivisions 1 through 12 of
105 this subsection. All funds collected pursuant to this subdivision shall be paid into the state treasury and
106 shall be set aside as a special fund to be used only for emergency medical service purposes. The
107 moneys in the special fund shall be distributed as follows:

108 a. Two and one-half percent shall be distributed to the Virginia Association of Volunteer Rescue
109 Squads;

110 b. Thirteen and one-half percent shall be distributed to the State Department of Health to support (i)
111 emergency medical services training programs (excluding advanced life support classes), (ii) advanced
112 life support training, and (iii) recruitment and retention programs (all funds for such support shall be
113 used to recruit and retain volunteer emergency medical services personnel only, including public
114 awareness campaigns, technical assistance programs, and similar activities). Any funds set aside for
115 distribution under this provision and remaining undistributed at the end of any fiscal year shall revert to
116 the Rescue Squad Assistance Fund;

117 c. Thirty-one and three-quarters percent shall be distributed to the Rescue Squad Assistance Fund;

118 d. Twenty-seven and one-quarter percent shall be available to the State Department of Health for use
119 in emergency medical services; and

120 e. Twenty-five percent shall be returned by the Comptroller to the locality wherein such vehicle is

registered, to provide funding for training of volunteer or salaried emergency medical service personnel of licensed, nonprofit emergency medical services agencies and for the purchase of necessary equipment and supplies for use in such locality for licensed, nonprofit emergency medical and rescue services.

The Comptroller shall clearly designate on the warrant, check, or other means of transmitting these funds that such moneys are only to be used for purposes set forth in this subdivision. Such funds shall be in addition to any local appropriations and local governing bodies shall not use these funds to supplant local funds. Each local governing body shall report annually to the Board of Health on the use of the twenty-five percent of the funds which were returned to it. In any case in which the local governing body grants the funds to a regional emergency medical services council to be distributed to the licensed, nonprofit emergency medical and rescue services, the local governing body shall remain responsible for the proper use of the funds. If, at the end of any fiscal year, a report on the use of the twenty-five percent of the funds for that year has not been received from a local governing body, any funds due to that local governing body for the next fiscal year shall be retained until such time as the report has been submitted to the Board.

B. All motor vehicles, trailers, and semitrailers registered as provided in subsection B of § 46.2-646 shall pay a registration fee equal to one-twelfth of all fees required by subsection A of this section or § 46.2-697 for such motor vehicle, trailer, or semitrailer, computed to the nearest cent, multiplied by the number of months in the registration period for such motor vehicles, trailers, and semitrailers.

C. The manufacturer's shipping weight or scale weight shall be used for computing all fees required by this section to be based upon the weight of the vehicle.

D. The applicant for registration bears the burden of proof that the vehicle for which registration is sought is entitled by weight, design, and use to be registered at the fee tendered by the applicant to the Commissioner or to his authorized agent.

§ 46.2-697. Fees for vehicles not designed or used for transportation of passengers.

A. Except as otherwise provided in this section, the fee for registration of all motor vehicles not designed and used for the transportation of passengers shall be ~~thirteen dollars~~ \$23 plus an amount determined by the gross weight of the vehicle or combination of vehicles of which it is a part, when loaded to the maximum capacity for which it is registered and licensed, according to the schedule of fees set forth in this section. For each 1,000 pounds of gross weight, or major fraction thereof, for which any such vehicle is registered, there shall be paid to the Commissioner the fee indicated in the following schedule immediately opposite the weight group and under the classification established by the provisions of subsection B of § 46.2-711 into which such vehicle, or any combination of vehicles of which it is a part, falls when loaded to the maximum capacity for which it is registered and licensed. The fee for a pickup or panel truck shall be ~~twenty-three dollars~~ \$33 if its gross weight is 4,000 pounds or less, and ~~twenty-eight dollars~~ \$38 if its gross weight is 4,001 pounds through 6,500 pounds. The fee shall be ~~twenty-nine dollars~~ \$39 for any motor vehicle with a gross weight of 6,501 pounds through 10,000 pounds.

Fee Per Thousand Pounds of Gross Weight

Gross Weight Groups (pounds)	Private Carriers	For Rent or For Hire Carriers
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10,001 - 11,000	\$2.60	\$4.75
11,001 - 12,000	2.80	4.90
12,001 - 13,000	3.00	5.15
13,001 - 14,000	3.20	5.40
14,001 - 15,000	3.40	5.65
15,001 - 16,000	3.60	5.90
16,001 - 17,000	4.00	6.15
17,001 - 18,000	4.40	6.40
18,001 - 19,000	4.80	7.50
19,001 - 20,000	5.20	7.70
20,001 - 21,000	5.60	7.90
21,001 - 22,000	6.00	8.10
22,001 - 23,000	6.40	8.30
23,001 - 24,000	6.80	8.50
24,001 - 25,000	6.90	8.70
25,001 - 26,000	6.95	8.90
26,001 - 27,000	8.25	10.35

180	27,001 - 28,000	8.30	10.55
181	28,001 - 29,000	8.35	10.75
182	29,001 - 40,000	8.45	10.95
183	40,001 - 45,000	8.55	11.15
184	45,001 - 50,000	8.75	11.25
185	50,001 - 55,000	9.25	13.25
186	55,001 - 76,000	11.25	15.25
187	76,001 - 80,000	13.25	16.25

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189 For all such motor vehicles exceeding a gross weight of 6,500 pounds, an additional fee of five
 190 dollars shall be imposed.

191 B. In lieu of registering any motor vehicle referred to in this section for an entire licensing year, the
 192 owner may elect to register the vehicle only for one or more quarters of a licensing year, and in such
 193 case, the fee shall be twenty-five percent of the annual fee plus five dollars for each quarter that the
 194 vehicle is registered.

195 C. When an owner elects to register and license a motor vehicle under subsection B of this section,
 196 the provisions of §§ 46.2-646 and 46.2-688 shall not apply.

197 D. Notwithstanding any other provision of law, no vehicle designed, equipped, and used to tow
 198 disabled or inoperable motor vehicles shall be required to register in accordance with any gross weight
 199 other than the gross weight of the towing vehicle itself, exclusive of any vehicle being towed.

200 E. All registrations and licenses issued for less than a full year shall expire on the date shown on the
 201 license and registration.

202 § 46.2-698. Fees for farm vehicles.

203 A. The fees for registration of farm motor vehicles having gross weights of 7,500 pounds or more,
 204 when such vehicles are used exclusively for farm use as defined in this section, shall be one-half of the
 205 fee per 1,000 pounds of gross weight for private carriers as calculated under the provisions of
 206 § 46.2-697 and one-half of the fee for overload permits under § 46.2-1128, but the annual registration
 207 fee to be paid for each farm vehicle shall not be less than ~~fifteen dollars~~ \$25.

208 B. A farm motor vehicle is used exclusively for farm use:

209 1. When owned by a person who is engaged either as an owner, renter, or operator of a farm of a
 210 size reasonably requiring the use of such vehicle or vehicles and when such vehicle is:

211 a. Used in the transportation of agricultural commodities, poultry, dairy products, or livestock of the
 212 farm he is working to market, or to other points for sale or processing, or when used to transport
 213 materials, tools, equipment, or supplies which are to be used or consumed on the farm he is working, or
 214 when used for any other transportation incidental to the regular operation of such farm;

215 b. Used in transporting forest products, including forest materials originating on a farm or incident to
 216 the regular operation of a farm, to the farm he is working or transporting for any purpose forest
 217 products which originate on the farm he is working; or

218 c. Used in the transportation of farm produce, supplies, equipment, or materials to a farm not worked
 219 by him, pursuant to a mutual cooperative agreement.

220 2. When the nonfarm use of such motor vehicle is limited to the personal use of the owner and his
 221 immediate family in attending church or school, securing medical treatment or supplies, or securing
 222 other household or family necessities.

223 C. As used in this section, the term "farm" shall include one or more farms, orchards, or ranches, but
 224 does not include a tree farm unless it is part of what otherwise is a farm.

225 D. The first application for registration of a vehicle under this section shall be made on forms
 226 provided by the Department and shall include:

227 1. The location and acreage of each farm on which the vehicle to be registered is to be used;

228 2. The type of agricultural commodities, poultry, dairy products or livestock produced on such farms
 229 and the approximate amounts produced annually;

230 3. A statement, signed by the vehicle's owner, that the vehicle to be registered will only be used for
 231 one or more of the purposes specified in subsection B of this section; and

232 4. Other information required by the Department;

233 The above information is not required for the renewal of a vehicle's registration under this section.

234 E. The Department shall issue appropriately designated license plates for those motor vehicles
 235 registered under this section. The manner in which such license plates are designated shall be at the
 236 discretion of the Commissioner.

237 F. The owner of a farm vehicle shall inform the Commissioner within thirty days or at the time of
 238 his next registration renewal, whichever comes first, when such vehicle is no longer used exclusively for
 239 farm use as defined in this section, and shall pay the appropriate registration fee for the vehicle based
 240 on its type of operation. It shall constitute a Class 2 misdemeanor to: (i) operate or to permit the

operation of any farm motor vehicle for which the fee for registration and license plates is herein prescribed on any highway in the Commonwealth without first having paid the prescribed registration fee; or (ii) operate or permit the operation of any motor vehicle, registered under this section, for purposes other than as provided under subsection B of this section; or (iii) operate as a for-hire vehicle.

G. Nothing in this section shall affect the exemptions of agricultural and horticultural vehicles under §§ 46.2-664 through 46.2-670.

H. Notwithstanding other provisions of this section, vehicles licensed under this section may be used by volunteer rescue squad members and volunteer firefighters in responding to emergency calls, in reporting for regular duty, and in attending squad meetings and drills.

§ 46.2-700. Fees for vehicles for transporting well-drilling machinery and specialized mobile equipment.

A. The fee for registration of any motor vehicle, trailer, or semitrailer on which well-drilling machinery is attached and which is permanently used solely for transporting the machinery shall be fifteen dollars \$25.

B. The fee for the registration of specialized mobile equipment shall be ~~fifteen dollars~~ \$25. "Specialized mobile equipment" shall mean any self-propelled motor vehicle manufactured for a specific purpose, other than for the transportation of passengers or property, which is used on a job site and whose movement on any highway is incidental to the purpose for which it was designed and manufactured. The vehicle must be constructed to fall within all size and weight requirements as contained in §§ 46.2-1105, 46.2-1110, 46.2-1113 and Article 17 (§ 46.2-1122 et seq.) of Chapter 10 of this title and must be capable of maintaining sustained highway speeds of forty miles per hour or more. Vehicles registered under this section shall be exempt from the requirements of § 46.2-1157.

C. Specialized mobile equipment which cannot maintain a sustained highway speed in excess of forty miles per hour, and trailers or semitrailers which are designed and manufactured for a specific purpose and whose movement on the highway is incidental to the purpose for which it was manufactured and which are not designed or used to transport persons or property, shall not be required to be registered under this chapter.

§ 46.2-702.1. *Distribution of certain revenue.*

A. *An amount equivalent to the net additional revenues generated from the increases in the registration fees under §§ 46.2-694, 46.2-697, 46.2-698, and 46.2-700 effective July 1, 2004, pursuant to enactments of the 2004 Special Session of the General Assembly, shall be deposited by the Comptroller into the Transportation Trust Fund established under § 33.1-23.03:1. As provided in subsection A of § 58.1-638, of such amount deposited to the Transportation Trust Fund pursuant to 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.*

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

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

B. The council of any city and the governing body of any county may levy a general retail sales tax at the rate of one *and one-half* percent to provide revenue for the general fund of such city or county. Such tax shall be added to the rate of the state sales tax imposed by §§ 58.1-603 and 58.1-604 and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. The applicable brackets of prices shall be as prescribed in § 58.1-628 for the combined state and local tax. No discount under § 58.1-622 shall be allowed on a local sales tax.

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

D. Any local sales tax levied under this section shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax, with the adjustments required by § 58.1-628.

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

302 county of possible use by the purchasers. If a dealer has any place of business located in more than one
303 political subdivision by reason of the boundary line or lines passing through such place of business, the
304 amount of sales tax paid by such a dealer with respect to such place of business shall be treated for the
305 purposes of this section as follows: one-half shall be assignable to each political subdivision where two
306 are involved, one-third where three are involved, and one-fourth where four are involved.

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

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

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

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

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

355 § 58.1-606. To what extent and under what conditions cities and counties may levy local use tax;
356 collection thereof by Commonwealth and return of revenues to the cities and counties.

357 A. The council of any city and the governing body of any county which has levied or may hereafter
358 levy a city or county sales tax under § 58.1-605 may levy a city or county use tax at the rate of one *and*
359 *one-half* percent to provide revenue for the general fund of such city or county. Such tax shall be added
360 to the rate of the state use tax imposed by this chapter and shall be subject to all the provisions of this
361 chapter, and all amendments thereof, and the rules and regulations published with respect thereto, except
362 that the applicable brackets of prices shall be as prescribed in § 58.1-628 for the combined state and
363 local tax, and except that no discount under § 58.1-622 shall be allowed on a local use tax.

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

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

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

C. Any local use tax levied under this section shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state use tax, with the adjustments required by § 58.1-628.

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

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

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

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

§ 58.1-628. Bracket system for combined state and local tax.

The following Tax Commissioner shall prepare brackets of prices that shall be used for the collection of the combined state and local tax: on sales of less than \$5.

\$0.00	to	\$0.11	no tax
.12	to	.33	1» tax
.34	to	.55	2» tax
.56	to	.77	3» tax
.78	to	.99	4» tax
1.00	to	1.22	5» tax
1.23	to	1.44	6» tax
1.45	to	1.66	7» tax
1.67	to	1.88	8» tax

425	_____	1.89	_____	to	_____	2.11	_____	9» tax
426	_____	2.12	_____	to	_____	2.33	_____	10» tax
427	_____	2.34	_____	to	_____	2.55	_____	11» tax
428	_____	2.56	_____	to	_____	2.77	_____	12» tax
429	_____	2.78	_____	to	_____	2.99	_____	13» tax
430	_____	3.00	_____	to	_____	3.22	_____	14» tax
431	_____	3.23	_____	to	_____	3.44	_____	15» tax
432	_____	3.45	_____	to	_____	3.66	_____	16» tax
433	_____	3.67	_____	to	_____	3.88	_____	17» tax
434	_____	3.89	_____	to	_____	4.11	_____	18» tax
435	_____	4.12	_____	to	_____	4.33	_____	19» tax
436	_____	4.34	_____	to	_____	4.55	_____	20» tax
437	_____	4.56	_____	to	_____	4.77	_____	21» tax
438	_____	4.78	_____	to	_____	5.00	_____	22» tax

439
 440 On transactions over five dollars greater than \$5, the tax shall be computed at four and one-half five
 441 percent, one half cent or more being treated as one cent. The foregoing bracket system shall not relieve
 442 the dealer from the duty and liability to remit an amount equal to four and one-half five percent of his
 443 gross taxable sales as provided in this chapter. If the dealer, however, can show to the satisfaction of the
 444 Tax Commissioner that more than eighty-five percent of the total dollar volume of his gross taxable
 445 sales during the taxable month was from individual sales at prices of ten cents or less each and that he
 446 was unable to adjust his prices in such manner as to prevent the economic incidence of the sales tax
 447 from falling on him, the Tax Commissioner shall determine the proper tax liability of the dealer based
 448 on that portion of the dealer's gross taxable sales which was from sales at prices of eleven cents or
 449 more.

450 § 58.1-638. Disposition of state sales and use tax revenue; localities' share; Game Protection Fund.

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

453 1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted
 454 by the 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided
 455 in this section, to the Transportation Trust Fund as defined in § 33.1-23.03:1. Of the funds paid to the
 456 Transportation Trust Fund, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port
 457 Fund as provided in this section; an aggregate of 2.4 percent shall be set aside as the Commonwealth
 458 Airport Fund as provided in this section; and an aggregate of 14.5 percent in fiscal year 1998-1999 and
 459 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass
 460 Transit Fund as provided in this section. The Fund's share of such net revenue shall be computed as an
 461 estimate of the net revenue to be received into the state treasury each month, and such estimated
 462 payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall
 463 be made to the Fund on the last day of each month.

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

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

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

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

477 3. There is hereby created in the Department of the Treasury a special nonreverting fund which shall
 478 be part of the Transportation Trust Fund and which shall be known as the Commonwealth Airport Fund.
 479 The Commonwealth Airport Fund shall be established on the books of the Comptroller and any funds
 480 remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in
 481 the Fund. Interest earned on the funds shall be credited to the Fund. The funds so allocated shall be
 482 allocated by the Commonwealth Transportation Board to the Virginia Aviation Board. The funds shall
 483 be allocated by the Virginia Aviation Board to any Virginia airport which is owned by the
 484 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: sixty percent to MWAA, up to a maximum annual amount of two million dollars, and forty 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

f. The remaining twenty-five percent shall be distributed for capital purposes on the basis of ninety-five percent of the nonfederal share for federal projects and ninety-five percent of the total costs for nonfederal projects. In the event that total capital funds available under this subdivision are insufficient to fund the complete list of eligible projects, the funds shall be distributed to each transit property in the same proportion that such capital expenditure bears to the statewide total of capital projects.

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

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

a. Local obligations for debt service for WMATA rail transit bonds apportioned to each locality using WMATA's capital formula shall be paid first by NVTC. NVTC shall use ninety-five 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 twenty percent of annual local bus capital expenses. Hold harmless protections and obligations for NVTC's jurisdictions agreed to by NVTC on November 5, 1998, shall remain in effect.

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

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

C. B. The localities' share of the net revenue *generated by one percent of the sales and use tax* 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. C. The net revenue so distributable among the counties and cities shall be apportioned and distributed upon the basis as certified to the Comptroller by the Department of Education, of the number of children in each county and city according to the most recent statewide census of school population taken by the Department of Education pursuant to § 22.1-284, as adjusted in the manner hereinafter provided. No special school population census, other than a statewide census, shall be used as the basis of apportionment and distribution except that in any calendar year in which a statewide census is not reported, the Department of Education shall adjust such school population figures by the same percent of annual change in total population estimated for each locality by The Center for Public Service. 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 preceding school population census, 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 census and a proper reduction made in the school population of the county or counties from which the annexed territory was acquired.

D. The sales and use tax revenue generated by one-half percent sales and use tax shall be distributed in accordance with this section.

1. One-half of such revenue shall be deposited into the At-Risk Student Academic Achievement Fund pursuant to § 22.1-199.4.

2. The remaining one-half of such revenue shall be distributed to the counties and cities of this Commonwealth on a set per pupil amount, based on the latest actual adjusted average daily membership, and used as determined by each respective county or city.

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 thirty 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 § 29.1-101.1, 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. 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.

G. 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.

§ 58.1-2217. Taxes levied; rate.

A. There is hereby levied a tax at the rate of ~~seventeen and one-half~~ *twenty-three* cents per gallon on gasoline and gasohol.

B. There is hereby levied a tax at the rate of ~~sixteen~~ *twenty-one and one-half* cents per gallon on diesel fuel.

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

D. There is hereby levied a tax at the rate of five cents per gallon on aviation gasoline. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation gasoline shall be liable for the tax at the rate of ~~seventeen and one-half~~ *twenty-three* cents per gallon, along with any penalties and interest that may accrue.

E. There is hereby levied a tax at the rate of five cents per gallon on aviation jet fuel purchased or acquired for use by a user of aviation fuel other than an aviation consumer. There is hereby levied a tax at the rate of five cents per gallon upon the first 100,000 gallons of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by any aviation consumer in any fiscal year. There is hereby levied a tax at the rate of one-half cent per gallon on all aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by an aviation consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation jet fuel taxable under this chapter shall be liable for the tax imposed at the rate of ~~sixteen~~ *twenty-one and one-half* cents per gallon, along with any penalties and interest that may accrue.

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

§ 58.1-2249. Tax on alternative fuel.

A. There is hereby levied a tax at the rate of ~~sixteen~~ *twenty-one and one-half* cents per gallon on liquid alternative fuel used to operate a highway vehicle by means of a vehicle supply tank that stores

669 fuel only for the purpose of supplying fuel to operate the vehicle. There is hereby levied a tax at a rate
670 equivalent to ~~sixteen~~ *twenty-one and one-half* cents per gallon on all other alternative fuel used to
671 operate a highway vehicle. The Commissioner shall determine the equivalent rate applicable to such
672 other alternative fuels.

673 B. In addition to any tax imposed by this article, there is hereby levied an annual license tax of fifty
674 dollars per vehicle on each highway vehicle that is fueled from a private source if the alternative fuels
675 tax levied under this article has not been paid on fuel used in the vehicle. If such a highway vehicle is
676 not in operation by January 1 of any year, the license tax shall be reduced by one-twelfth for each
677 complete month which shall have elapsed since the beginning of such year.

678 § 58.1-2289. Disposition of tax revenue generally.

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

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

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

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

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

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

726 From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for
727 the propelling of watercraft, after deduction for lawful refunds, there shall be paid into the state treasury
728 for use by the Marine Resources Commission, the Virginia Soil and Water Conservation Board, the
729 State Water Control Board, and the Commonwealth Transportation Board to (i) improve the public
730 docks as specified in this section, (ii) improve commercial and sports fisheries in Virginia's tidal waters,

(iii) make environmental improvements including, without limitation, fisheries management and habitat enhancement in the Chesapeake and its tributaries, and (iv) further the purposes set forth in § 33.1-223, a sum as established by the General Assembly.

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

§ 58.1-2701. Amount of tax.

A. Except as provided in subsection B, every motor carrier shall pay a road tax equivalent to ~~nineteen and one-half~~ *twenty-five* cents per gallon calculated on the amount of motor fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of sixty degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute), used in its operations within the Commonwealth.

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

B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles that are not registered under the International Registration Plan shall pay a fee of ~~\$100~~ *\$150* per year for each qualified highway vehicle. The fee is due and payable when the vehicle registration fees are paid pursuant to the provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2.

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

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

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

A. Every motor carrier subject to the road tax shall be entitled to a credit on such tax equivalent to ~~sixteen~~ *twenty-one and one-half* cents per gallon on all motor fuel, diesel fuel and liquefied gases purchased by such carrier within the Commonwealth for use in its operations either within or without the Commonwealth and upon which the motor fuel, diesel fuel or liquefied gases tax imposed by the laws of the Commonwealth has been paid by such carrier. Evidence of the payment of such tax in such form as may be required by, or is satisfactory to, the Department shall be furnished by each carrier claiming the credit herein allowed.

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

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

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

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

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