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**SENATE BILL NO. 708**

Offered January 20, 2006

A *BILL to amend and reenact §§ 2.2-1509.2, 33.1-23.03:8, 33.1-23.1, 46.2-694, 46.2-694.1, 46.2-697, 46.2-698, 46.2-700, 46.2-730, 46.2-752, 46.2-753, 58.1-602, 58.1-609.5, 58.1-638, 58.1-2217, 58.1-2249, 58.1-2289, 58.1-2402, 58.1-2425, 58.1-2701, and 58.1-2706 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 33.1-23.1:01, 33.1-23.1:02, 33.1-221.1:1.2, and 46.2-702.1, by adding in Chapter 22 of Title 58.1 an article numbered 8.1, consisting of a section numbered 58.1-2288.1, and by adding in Article 2 of Chapter 25 of Title 58.1 a section numbered 58.1-2531; and to repeal the tenth enactment clauses of Chapter 1019 and Chapter 1044 of the Acts of Assembly of 2000; relating to the funding of transportation in the Commonwealth.*

Patrons—Hawkins, Chichester, Colgan, Edwards, Houck, Howell, Lambert, Locke, Lucas, Potts, Quayle, Rerras, Reynolds, Saslaw, Ticer, Wagner, Whipple and Williams

Referred to Committee on Finance

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

1. That §§ 2.2-1509.2, 33.1-23.03:8, 33.1-23.1, 46.2-694, 46.2-694.1, 46.2-697, 46.2-698, 46.2-700, 46.2-730, 46.2-752, 46.2-753, 58.1-602, 58.1-609.5, 58.1-638, 58.1-2217, 58.1-2249, 58.1-2289, 58.1-2402, 58.1-2425, 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 33.1-23.1:01, 33.1-23.1:02, 33.1-221.1:1.2, and 46.2-702.1, by adding in Chapter 22 of Title 58.1 an article numbered 8.1, consisting of a section numbered 58.1-2288.1, and by adding in Article 2 of Chapter 25 of Title 58.1 a section numbered 58.1-2531 as follows:

§ 2.2-1509.2. Use of transportation moneys.

If any money in the Highway Maintenance and Operating Fund or the Transportation Trust Fund established pursuant to § 33.1-23.03:1 is proposed to be used for any purpose other than administering, planning, constructing, improving, and maintaining the roads embraced in the systems of highways for the Commonwealth and its localities and/or furthering the interests of the Commonwealth in the areas of public transportation, railways, seaports, and/or airports, then the Governor, if such diversion is proposed by the Governor, shall include with any such proposal a plan for repayment of funds diverted within three years of such use in "The Budget Bill" submitted pursuant to § 2.2-1509.

If such diversion of funds from the Highway Maintenance and Operating Fund or the Transportation Trust Fund is proposed by the General Assembly as an amendment to the Budget Bill, such amendment shall include language setting out the plan for repayment of such funds within three years.

A. All moneys credited to the Highway Maintenance and Operating Fund, the Priority Transportation Fund, the Rail Enhancement Fund, the Shortline Railway Preservation and Development Fund, the Transportation Trust Fund, the Virginia Rural Transportation Fund, and the Virginia Urban Congestion Relief Fund, hereinafter referred to as "the Funds," or any related subaccount, fund, or subfund of any of the Funds shall be used for the purposes specified in this section.

B. 1. Such moneys credited to the Funds shall be the revenues designated for deposit into any of the Funds from (i) the revenues generated annually from the taxes, fees, or other charges imposed under Titles 33.1 and 46.2 of the Code of Virginia; (ii) the revenues generated annually pursuant to Chapters 11, 12, and 15 of the Acts of Assembly of 1986, Special Session, as the provisions of such Chapters may be amended; (iii) the revenues generated annually from Chapters 6 (§ 58.1-600 et seq.), 6.1 (§ 58.1-640 et seq.), 8 (§ 58.1-800 et seq.), 22 (§ 58.1-2200 et seq.), 24 (§ 58.1-2400 et seq.), 25 (§ 58.1-2500 et seq.), and 27 (§ 58.1-2700 et seq.) of Title 58.1; and (iv) such other sources as the General Assembly may dedicate or appropriate to any of the Funds. In addition, all interest, dividends, or appreciation accruing to any of the Funds shall also be part of the Funds and be used for the purposes specified in this section.

2. The revenues described in subdivision 1 shall include but are not limited to the revenues described in subdivisions A 1 and A 2 of § 33.1-23.03:8; all taxes and fees collected under Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1 credited to the Highway Maintenance and Operating Fund as provided in subsection C of § 58.1-2701; all funds, tolls, revenues, amounts required to be paid over to the Transportation Trust Fund, and interest, dividends, and appreciation accruing to the Transportation Trust Fund or the Highway Maintenance and Operating Fund, as designated for the Transportation Trust Fund pursuant to § 33.1-23.03:1; all state recordation taxes deposited into the U.S. Route 58 Corridor Development Fund pursuant to § 58.1-815; all state recordation taxes deposited or transferred into the Northern Virginia Transportation District Fund pursuant to § 58.1-815.1 and any public

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rights-of-way use fees or state or local revenues deposited into the Northern Virginia Transportation District Fund pursuant to such section; all state recordation taxes deposited or transferred into the Transportation Improvement Program Set-aside Fund pursuant to § 58.1-816.1; the revenues from the motor vehicle sales and use tax deposited into the Rail Enhancement Fund pursuant to clause (iv) of subsection A of § 58.1-2425; the revenues from the insurance license tax on automobile premiums deposited into the Virginia Urban Congestion Relief Fund as provided under § 58.1-2531 pursuant to enactments of the 2006 Session of the General Assembly; the revenues from the vehicle registration fees deposited into the Virginia Urban Congestion Relief Fund as provided under § 46.2-702.1 pursuant to enactments of the 2006 Session of the General Assembly; the revenues from the state sales and use taxes deposited into the Virginia Urban Congestion Relief Fund as provided in subsection G of § 58.1-638 pursuant to enactments of the 2006 Session of the General Assembly; the revenues from the fuels taxes deposited into the Highway Maintenance and Operating Fund, the Commonwealth Transit Capital Fund, the Virginia Urban Congestion Relief Fund, and the Virginia Rural Transportation Fund as provided in subsection F of § 58.1-2289 pursuant to enactments of the 2006 Session of the General Assembly; the revenues from the motor vehicle sales and use tax deposited into the Virginia Urban Congestion Relief Fund, the Virginia Rural Transportation Fund, the Rail Enhancement Fund, and the Shortline Railway Preservation and Development Fund as provided in clause (vi) of subsection A of § 58.1-2425 pursuant to enactments of the 2006 Session of the General Assembly; any damages and costs collected pursuant to § 33.1-191 as designated for deposit into the Transportation Trust Fund under such section; any civil penalties, and interest thereon, and cost recoveries designated for deposit into any of the Funds as provided under law; fees for dealer's license plates designated for deposit into the Transportation Trust Fund pursuant to § 46.2-1546; any excess earnings to be deposited into the Transportation Trust Fund under a comprehensive agreement entered into under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) pursuant to subsection E of § 56-566; revenues from the lease, sale, or other conveyance made by the Commonwealth Transportation Board that are designated for deposit into any of the Funds as provided under law; and any locally generated revenues deposited into any of the Funds as provided under law.

C. All moneys credited to the Funds shall be used solely for purposes of:

1. Administering, planning, constructing, improving, or maintaining the roads embraced in the systems of highways for the Commonwealth and its localities, including access roads and bikeways adjacent thereto, or furthering the interests of the Commonwealth in the areas of highways, public transportation, railways, seaports, airports, or congestion mitigation;

2. Making payments on bonds or other obligations (including bond anticipation notes and refunding bonds) that have been issued or entered into to finance transportation projects that are directly related to the purposes described in subdivision 1; or

3. Making loans to finance transportation projects that are directly related to the purposes described in subdivision 1.

D. No moneys designated for deposit into the general fund of the state treasury shall be used for any of the purposes described in subsection C or for any other transportation-related purpose except that moneys designated for deposit into the general fund of the state treasury shall be used for (i) making debt service payments on any transportation-related bonds or other obligations issued pursuant to Article X, Section 9 (c) of the Virginia Constitution in those cases in which the revenues dedicated for the payment of the debt service on such bonds or other obligations are insufficient to make full payment; and (ii) purposes of making the \$40 million deposit under § 58.1-815 and the \$40 million deposit under § 58.1-816, including any portion of such \$40 million deposit under § 58.1-816 that is actually deposited or transferred into (a) the Northern Virginia Transportation District Fund established under § 58.1-815.1 or (b) the Transportation Improvement Program Set-aside Fund established under § 58.1-816.1.

§ 33.1-23.03:8. Priority Transportation Fund established.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Priority Transportation Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. All funds as may be designated in the appropriation act for deposit to the Fund shall be paid into the state treasury and credited to the Fund. Such funds shall include:

1. A portion of the moneys actually collected, including penalty and interest, attributable to any increase in revenues from the taxes imposed under Chapter 22 (§ 58.1-2200 et seq.) of Title 58.1, with such increase being calculated as the difference between such tax revenues collected in the manner prescribed under Chapter 22 less such tax revenues that would have been collected using the prescribed manner in effect before the effective date of Chapter 22. The portion to be deposited to the Fund shall be the moneys actually collected from such increase in revenues (but not including additional revenues described in subsection F of § 58.1-2289) and allocated for highway and mass transit improvement projects as set forth in § 33.1-23.03:2, but not including any amounts that are allocated to the

Commonwealth Port Fund and the Commonwealth Airport Fund under such section. There shall also be deposited into the Fund all additional federal revenues attributable to Chapter 22 (§ 58.1-2200 et seq.) of Title 58.1; and

2. Beginning with the fiscal year ending June 30, 2000, and for fiscal years thereafter, all revenues that exceed the official forecast, pursuant to § 2.2-1503, for (i) the Highway Maintenance and Operating Fund and (ii) the allocation to highway and mass transit improvement projects as set forth in § 33.1-23.03:2, but not including any amounts that are allocated to the Commonwealth Port Fund and the Commonwealth Airport Fund under such section; and

3. Any other such funds as may be transferred, allocated, or appropriated.

The Fund shall be considered a part of the Transportation Trust Fund. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes enumerated in subsection B of this section. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller.

B. The Commonwealth Transportation Board shall use the Fund to facilitate the financing of priority transportation projects throughout the Commonwealth. The Board may use the Fund either (i) by expending amounts therein on such projects directly, (ii) by payment to any authority, locality, commission or other entity for the purpose of paying the costs thereof, or (iii) by using such amounts to support, secure, or leverage financing for such projects. No expenditures from or other use of amounts in the Fund shall be considered in allocating highway maintenance and construction funds under § 33.1-23.1 or apportioning Transportation Trust Fund funds under § 58.1-638, but shall be in addition thereto. The Board shall use the Fund to facilitate the financing of priority transportation projects as designated by the General Assembly; provided, however, that, at the discretion of the Commonwealth Transportation Board, funds allocated to projects within a transportation district may be allocated among projects within the same transportation district as needed to meet construction cash-flow needs.

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

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

B. After funds are set aside for administrative and general expenses and pursuant to other provisions in this title which provide for the disposition of funds prior to allocation for highway purposes, and after allocation is made pursuant to subsection A of this section, the Commonwealth Transportation Board shall allocate each year the remaining funds available for highway purposes, exclusive of federal funds for the interstate system, among the several highway systems for construction first pursuant to §§ 33.1-23.1:1 and 33.1-23.1:2 and then as follows:

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

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

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

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

*D. The provisions of this section shall not apply to funds deposited in the Virginia Urban Congestion Relief Fund (§ 33.1-23.1:01) or the Virginia Rural Transportation Fund (§ 33.1-23.1:02), whether such funds are designated for highway or non-highway purposes.*

*§ 33.1-23.1:01. Virginia Urban Congestion Relief Fund established; report.*

*A. There is hereby created in the state treasury a special nonreverting fund known as the Virginia Urban Congestion Relief Fund, hereafter referred to as "the Fund," to be administered by the Board. The Fund shall be established on the books of the Comptroller. Any moneys collected by virtue of § 46.2-702.1, subsection G of § 58.1-638, the applicable provisions of subsection F of § 58.1-2289, the applicable provisions of clause (vi) of subsection A of § 58.1-2425, § 58.1-2531, and any other public or private moneys designated for the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the*

181 general fund but shall remain in the Fund. Expenditures and disbursements from the Fund shall be  
182 made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the  
183 chairman of the Board.

184 B. Moneys in the Fund shall solely be used to address statewide and regional transportation projects  
185 and needs in the Commonwealth's urban areas as follows:

186 1. A minimum percentage, as designated by the Board, of the moneys allocated from the Fund in a  
187 given fiscal year shall be used for non-highway related projects, including but not limited to transit  
188 projects, transportation-demand management, rail development, ports, airports, and higher density  
189 development;

190 2. A minimum percentage, as designated by the Board, of the moneys allocated from the Fund in a  
191 given fiscal year shall be used for local projects approved by a Metropolitan Planning Organization  
192 that will provide transportation relief in less than 18 months, including but not limited to intersection  
193 improvements, the extension of existing turning lanes, the addition of passing lanes, additional signals,  
194 commuter bus services, and transportation-demand management services; and

195 3. The remaining moneys in the Fund may be disbursed to fund projects based on applications by  
196 Metropolitan Planning Organizations, other transportation authorities established by the General  
197 Assembly, the Virginia Department of Transportation, and the Department of Rail and Public  
198 Transportation, or to make debt service payments on obligations incurred by the Board that address  
199 urban transportation needs.

200 C. The Board shall establish eligibility standards and requirements for projects to be funded by the  
201 Fund, and policies and procedures for applications for allocations and grants from the Fund. Such  
202 eligibility standards shall require a demonstration that land-use actions have been undertaken to protect  
203 the integrity of the project, and shall require the applicant to provide matching funds at a level specified  
204 by the Board, which may include right-of-way donations, in-kind matches, or non-state dollars. No  
205 single project shall be allocated more than 50% of total available funds. Any project for which grants  
206 are provided pursuant to this section shall be added to the Six-Year Improvement Program, if not  
207 already included in such Program.

208 D. In assigning priorities for funding eligibility, the Board shall consider, but not be limited to, the  
209 extent to which:

210 1. Expenditures associated with project design have already been incurred;

211 2. Implementation of the project has been delayed, in terms of the 20-year planning cycle;

212 3. Construction of the project would result in substantial local and regional highway congestion  
213 mitigation;

214 4. Completion of the project would substantially improve commuting time between major residential  
215 areas and centers of employment; and

216 5. Implementation of the project would improve air quality or mitigate vehicle emissions or other  
217 environmental hazards.

218 E. The Board shall establish specific performance measures and criteria by which to measure the  
219 success of the projects supported by the Fund. These performance measures shall include, but not be  
220 limited to, standards for returns on investment and goals related to safety improvements, connectivity,  
221 economic development, improved air quality, and traffic mitigation. The Board shall review the  
222 performance measures annually, and assess the progress of the Fund in meeting these goals and  
223 standards.

224 F. For purposes of this section, "urban area" means those areas so designated by the Commonwealth  
225 Transportation Commissioner and approved by the Board. The areas and boundaries shall be based  
226 upon the designation of urbanized areas by the United States Bureau of the Census. In establishing the  
227 urban areas and their boundaries, the Commissioner shall seek the input of the governing bodies of the  
228 affected counties, cities, and towns.

229 G. Notwithstanding any other provision in this section and as provided in the appropriation act, all  
230 moneys in the Fund shall first be used to offset the debt service payment requirements of the  
231 Transportation Trust Fund established under § 33.1-23.03:1 attributable to Federal Highway  
232 Reimbursement Anticipation Notes.

233 H. No expenditures from or other use of amounts in the Fund shall be considered in allocating  
234 highway maintenance and construction funds under § 33.1-23.1 or apportioning Transportation Trust  
235 Fund funds under § 58.1-638.

236 I. The Board shall report annually to the Governor and the General Assembly as to the status of the  
237 Fund. The report shall include a detailed list of the awards and grants made during the previous fiscal  
238 year and any debt service payments or obligations. The report shall indicate the minimum percentages  
239 determined by the Board for non-highway projects and local projects, as required in subdivisions B 1  
240 and B 2, including details of how awards or grants fit into this allocation formula. The report shall also  
241 include a detailed review of the Fund's performance measures and an analysis of the progress of the  
242 Fund in meeting these standards and measures.

§ 33.1-23.1:02. Virginia Rural Transportation Fund established; report.

A. There is hereby created in the state treasury a special nonreverting fund known as the Virginia Rural Transportation Fund, hereafter referred to as "the Fund," to be administered by the Board. The Fund shall be established on the books of the Comptroller. Any moneys collected by virtue of the applicable provisions of subsection F of § 58.1-2289, the applicable provisions of clause (vi) of subsection A of § 58.1-2425, and any other public or private moneys designated for the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the General Fund but shall remain in the Fund. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the chairman of the Board.

B. Moneys in the Fund shall be used to address statewide and regional transportation projects and needs in the Commonwealth's rural areas as follows:

1. A minimum percentage, as designated by the Board, of the moneys allocated from the Fund in a given fiscal year shall be used for non-highway related projects to improve transportation in rural areas; and

2. The remaining moneys in the Fund may be disbursed for projects in rural areas based on application by Metropolitan Planning Organizations, Planning District Commissions, other transportation authorities established by the General Assembly, the Virginia Department of Transportation, and the Department of Rail and Public Transportation, or to make debt service payments on obligations incurred by the Board that address rural transportation needs.

C. The Board shall establish additional eligibility standards for projects to be funded from the Fund, and policies and procedures for applications for allocations and grants from the Fund. Such eligibility standards shall require a demonstration that land-use actions have been undertaken to protect the integrity of the project, and shall require the applicant to provide matching funds at a level specified by the Board, which may include right-of-way donations, in-kind matches, or non-state dollars. No single project shall be awarded more than 50% of total available funds. Any project for which grants are provided pursuant to this section shall be added to the Six-Year Improvement Program, if not already included in such Program.

D. The Board shall establish specific performance measures and criteria by which to measure the success of the projects supported by the Fund. These performance measures shall include, but not be limited to, standards for returns on investment and goals related to safety improvements, connectivity, improved air quality, and economic development. The Board shall review the performance measures annually, and assess the progress of the Fund in meeting these goals and standards.

E. For purposes of this section, "rural area" means any area not designated as an "urban area" pursuant to § 33.1-23.1:01.

F. The Board shall report annually to the Governor and the General Assembly as to the status of the Fund. The report shall include a detailed list of the awards and grants made during the previous fiscal year and any debt service payments or obligations. The report shall indicate the minimum percentage determined by the Board for non-highway projects, as required in subdivision B 1, including details of how awards or grants fit into this allocation formula. The report shall also include a detailed review of the Fund's performance measures and an analysis of the progress of the Fund in meeting these standards and measures.

G. No expenditures from or other use of amounts in the Fund shall be considered in allocating highway maintenance and construction funds under § 33.1-23.1 or apportioning Transportation Trust Fund funds under § 58.1-638.

§ 33.1-221.1:1.2. Shortline Railway Preservation and Development Fund.

A. The General Assembly declares shortline railway preservation and development of railway transportation support facilities to be important elements of a balanced transportation system of the Commonwealth for freight and passengers, and further that the retention, maintenance, and improvement of the shortline railway and development of railway transportation support facilities are essential to the Commonwealth's continued economic growth, vitality, and competitiveness in national world markets. There is hereby created in the state treasury a special nonreverting fund to be known as the Shortline Railway Preservation and Development Fund, hereinafter in this section referred to as "the Fund." A "shortline railway," for the purposes of this section, shall mean any Class II or Class III railroad as defined by the United States Surface Transportation Board. "Railway transportation support facilities," for the purposes of this section, shall mean facilities required for the loading, transfer, or additional track capacity to facilitate the shipment of goods by rail other than as provided for in § 33.1-221.1:1 or 33.1-221.1:1.1.

B. The Fund shall be established on the books of the Comptroller. Any moneys collected by virtue of the applicable provisions of clause (vi) of subsection A of § 58.1-2425 and any other public or private

304 moneys designated for the Fund shall be paid into the state treasury and credited to the Fund. Interest  
305 earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in  
306 the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund  
307 but shall remain in the Fund. Moneys in the Fund shall be used solely as provided in this section.  
308 Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued  
309 by the Comptroller upon written request signed by the Director of the Virginia Department of Rail and  
310 Public Transportation or the Director's designee.

311 C. The Director of the Department of Rail and Public Transportation shall administer and expend or  
312 commit, subject to the recommendations of the Rail Advisory Committee and the approval of the  
313 Commonwealth Transportation Board, the Fund for acquiring, leasing, and improving shortline railways  
314 and the development of railway transportation support facilities or assisting other appropriate entities to  
315 acquire, lease, or improve shortline railways and the development of railway transportation purposes  
316 whenever the Board shall have determined that such acquisition, lease, and improvement is for the  
317 common good of a region of the Commonwealth or the Commonwealth as a whole. The Director of the  
318 Department of Rail and Public Transportation may consult with other agencies or their designated  
319 representatives concerning projects to be undertaken under this section.

320 D. Tracks and facilities constructed, and property and equipment purchased, with funds under this  
321 section shall be the property of the Commonwealth for the useful life of the project, not to exceed 15  
322 years, as determined by the Director of the Department of Rail and Public Transportation, and shall be  
323 made available for use by all common carriers using the railway system to which they connect under  
324 the trackage rights agreements between the parties. Projects undertaken pursuant to this section shall be  
325 limited to those in a region of the Commonwealth or the Commonwealth as a whole. Such projects shall  
326 include a minimum of 30% cash or in-kind matching contribution from a private source, which may  
327 include a railroad, a regional authority, private industry, or a local government source, or a  
328 combination of such sources. No single project shall be allocated more than 50% of total available  
329 funds.

330 E. No expenditures from or other use of amounts in the Fund shall be considered in allocating  
331 highway maintenance and construction funds under § 33.1-23.1 or apportioning Transportation Trust  
332 Fund funds under § 58.1-638.

333 § 46.2-694. Fees for vehicles designed and used for transportation of passengers; weights used for  
334 computing fees; burden of proof.

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

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

341 2. ~~Twenty-eight~~Forty-eight dollars for each passenger car or motor home which weighs more than  
342 4,000 pounds, provided that it is not used for the transportation of passengers for compensation and is  
343 not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

344 3. Thirty cents per 100 pounds or major fraction thereof for a private motor vehicle other than a  
345 motorcycle with a normal seating capacity of more than 10 adults including the driver if the private  
346 motor vehicle is not used for the transportation of passengers for compensation and is not kept or used  
347 for rent or for hire or is not operated under a lease without a chauffeur. In no case shall the fee be less  
348 than ~~\$23~~\$33 if the vehicle weighs 4,000 pounds or less or ~~\$28~~\$48 if the vehicle weighs more than 4,000  
349 pounds.

350 4. Thirty cents per 100 pounds or major fraction thereof for a school bus. In no case shall the fee be  
351 less than ~~\$23~~\$33 if the vehicle weighs 4,000 pounds or less or ~~\$28~~\$38 if the vehicle weighs more than  
352 4,000 pounds.

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

355 6. ~~Thirteen~~Twenty-three dollars plus \$ 0.30 per 100 pounds or major fraction thereof for each motor  
356 vehicle, trailer, or semitrailer used as a common carrier of passengers, operating either intrastate or  
357 interstate. Interstate common carriers of interstate passengers may elect to be licensed and pay the fees  
358 prescribed in subdivision 7 of this subsection on submission to the Commissioner of a declaration of  
359 operations and equipment as he may prescribe. An additional \$5 shall be charged if the motor vehicle  
360 weighs more than 4,000 pounds.

361 7. ~~Thirteen~~Twenty-three dollars plus \$ 0.70 per 100 pounds or major fraction thereof for each motor  
362 vehicle, trailer, or semitrailer used as a common carrier of interstate passengers if election is made to be  
363 licensed under this subsection. An additional \$5 shall be charged if the motor vehicle weighs more than  
364 4,000 pounds. In lieu of the foregoing fee of \$ 0.70 per 100 pounds, a motor carrier of passengers,  
365 operating two or more vehicles both within and outside the Commonwealth and registered for insurance

purposes with the Surface Transportation Board of the United States Department of Transportation, Federal Highway Administration, may apply to the Commissioner for prorated registration. Upon the filing of such application, in such form as the Commissioner may prescribe, the Commissioner shall apportion the registration fees provided in this subsection so that the total registration fees to be paid for such vehicles of such carrier shall be that proportion of the total fees, if there were no apportionment, that the total number of miles traveled by such vehicles of such carrier within the Commonwealth bears to the total number of miles traveled by such vehicles within and outside the Commonwealth. Such total mileage in each instance is the estimated total mileage to be traveled by such vehicles during the license year for which such fees are paid, subject to the adjustment in accordance with an audit to be made by representatives of the Commissioner at the end of such license year, the expense of such audit to be borne by the carrier being audited. Each vehicle passing into or through Virginia shall be registered and licensed in Virginia and the annual registration fee to be paid for each such vehicle shall not be less than ~~\$33~~\$43. For the purpose of determining such apportioned registration fees, only those motor vehicles, trailers, or semitrailers operated both within and outside the Commonwealth shall be subject to inclusion in determining the apportionment provided for herein.

8. ~~Thirteen~~Twenty-three dollars plus \$ 0.80 per 100 pounds or major fraction thereof for each motor vehicle, trailer or semitrailer kept or used for rent or for hire or operated under a lease without a chauffeur for the transportation of passengers. An additional fee of \$5 shall be charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.

9. ~~Twenty-three~~Thirty-three dollars for a taxicab or other vehicle which is kept for rent or hire operated with a chauffeur for the transportation of passengers, and which operates or should operate under permits issued by the Department as required by law. An additional fee of \$5 shall be charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.

10. ~~Eighteen~~Twenty-eight dollars for a motorcycle, with or without a sidecar. To this fee shall be added a surcharge of \$3 which shall be distributed as provided in § 46.2-1191.

11. ~~Twenty-three~~Thirty-three dollars for a bus used exclusively for transportation to and from church school, for the purpose of religious instruction, or church, for the purpose of divine worship. If the empty weight of the vehicle exceeds 4,000 pounds, the fee shall be ~~\$28~~\$38.

12. ~~Thirteen~~Twenty-three dollars plus \$ 0.70 per 100 pounds or major fraction thereof for other passenger-carrying vehicles.

13. An additional fee of \$4 per year shall be charged and collected at the time of registration of each pickup or panel truck and each motor vehicle under subdivisions 1 through 12 of this subsection. All funds collected pursuant to this subdivision shall be paid into the state treasury and shall be set aside as a special fund to be used only for emergency medical service purposes. The moneys in the special fund shall be distributed as follows:

a. Two percent shall be distributed to the State Department of Health to provide funding to the Virginia Association of Volunteer Rescue Squads to be used solely for the purpose of conducting volunteer recruitment, retention and training activities;

b. Thirty percent shall be distributed to the State Department of Health to support (i) emergency medical services training programs (excluding advanced life support classes); (ii) advanced life support training; (iii) recruitment and retention programs (all funds for such support shall be used to recruit and retain volunteer emergency medical services personnel only, including public awareness campaigns, technical assistance programs, and similar activities); (iv) emergency medical services system development, initiatives, and priorities based on needs identified by the State Emergency Medical Services Advisory Board; (v) local, regional, and statewide performance contracts for emergency medical services to meet the objectives stipulated in § 32.1-111.3; (vi) technology and radio communication enhancements; and (vii) improved emergency preparedness and response. Any funds set aside for distribution under this provision and remaining undistributed at the end of any fiscal year shall revert to the Rescue Squad Assistance Fund;

c. Thirty-two percent shall be distributed to the Rescue Squad Assistance Fund;

d. Ten percent shall be available to the State Department of Health's Office of Emergency Medical Services for use in emergency medical services; and

e. Twenty-six 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 funds returned to it pursuant to this section. 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 funds returned to the locality pursuant to this section 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.

§ 46.2-694.1. Fees for trailers and semitrailers not designed and used for transportation of passengers.

Unless otherwise specified in this title, the registration fees for trailers and semitrailers not designed and used for the transportation of passengers on the highways in the Commonwealth shall be as follows:

Registered Gross Weight	1-Year Fee	2-Year Fee	Permanent Fee
0-1,500 lbs	\$8.00\$18	\$16.00\$26	\$50.00\$60
1,501-4,000 lbs	\$18.50\$28.50	\$37.00\$47	\$50.00\$60
4,001 lbs & above	\$23.50\$33.50	\$47.00\$57	\$50.00\$60

From the foregoing registration fees, the following amounts, regardless of weight category, shall be paid by the Department into the state treasury and set aside for the payment of the administrative costs of the safety inspection program provided for in Article 21 (§ 46.2-1157 et seq.) of Chapter 10 of this title: (i) from each one-year registration fee, one dollar and fifty cents; (ii) from each two-year registration fee, three dollars; and (iii) from each permanent registration fee, four dollars.

§ 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~~\$48 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		Private	For Rent or
Groups (pounds)		Carriers	For Hire Carriers
-----			
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



487	23,001 - 24,000	6.80	8.50
488	24,001 - 25,000	6.90	8.70
489	25,001 - 26,000	6.95	8.90
490	26,001 - 27,000	8.25	10.35
491	27,001 - 28,000	8.30	10.55
492	28,001 - 29,000	8.35	10.75
493	29,001 - 40,000	8.45	10.95
494	40,001 - 45,000	8.55	11.15
495	45,001 - 50,000	8.75	11.25
496	50,001 - 55,000	9.25	13.25
497	55,001 - 76,000	11.25	15.25
498	76,001 - 80,000	13.25	16.25

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

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

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

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

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

512 § 46.2-698. Fees for farm vehicles.

513 A. The fees for registration of farm motor vehicles having gross weights of 7,500 pounds or more,  
514 when such vehicles are used exclusively for farm use as defined in this section, shall be one-half of the  
515 fee per 1,000 pounds of gross weight for private carriers as calculated under the provisions of  
516 § 46.2-697 and one-half of the fee for overload permits under § 46.2-1128, but the annual registration  
517 fee to be paid for each farm vehicle shall not be less than \$15.25.

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

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

521 a. Used in the transportation of agricultural products of the farm he is working to market, or to other  
522 points for sale or processing, or when used to transport materials, tools, equipment, or supplies which  
523 are to be used or consumed on the farm he is working, or when used for any other transportation  
524 incidental to the regular operation of such farm;

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

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

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

533 C. As used in this section, the term "farm" means one or more areas of land used for the production,  
534 cultivation, growing, or harvesting of agricultural products, but does not include a tree farm that is not  
535 also a nursery or Christmas tree farm, unless it is part of what otherwise is a farm. As used in this  
536 section, the term "agricultural products" means any nursery plants; Christmas trees; horticultural,  
537 viticultural, and other cultivated plants and crops; aquaculture; dairy; livestock; poultry; bee; or other  
538 farm products.

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

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

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

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

546 4. Other information required by the Department.

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

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

551 F. The owner of a farm vehicle shall inform the Commissioner within 30 days or at the time of his  
552 next registration renewal, whichever comes first, when such vehicle is no longer used exclusively for  
553 farm use as defined in this section, and shall pay the appropriate registration fee for the vehicle based  
554 on its type of operation. It shall constitute a Class 2 misdemeanor to: (i) operate or to permit the  
555 operation of any farm motor vehicle for which the fee for registration and license plates is herein  
556 prescribed on any highway in the Commonwealth without first having paid the prescribed registration  
557 fee; or (ii) operate or permit the operation of any motor vehicle, registered under this section, for  
558 purposes other than as provided under subsection B of this section; or (iii) operate as a for-hire vehicle.

559 G. Nothing in this section shall affect the exemptions of agricultural and horticultural vehicles under  
560 §§ 46.2-664 through 46.2-670.

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

564 § 46.2-700. Fees for vehicles for transporting well-drilling machinery and specialized mobile  
565 equipment.

566 A. The fee for registration of any motor vehicle, trailer, or semitrailer on which well-drilling  
567 machinery is attached and which is permanently used solely for transporting the machinery shall be  
568 \$15\$25.

569 B. The fee for the registration of specialized mobile equipment shall be \$15\$25. "Specialized mobile  
570 equipment" shall mean any self-propelled motor vehicle manufactured for a specific purpose, other than  
571 for the transportation of passengers or property, which is used on a job site and whose movement on  
572 any highway is incidental to the purpose for which it was designed and manufactured. The vehicle must  
573 be constructed to fall within all size and weight requirements as contained in §§ 46.2-1105, 46.2-1110,  
574 46.2-1113 and Article 17 (§ 46.2-1122 et seq.) of Chapter 10 of this title and must be capable of  
575 maintaining sustained highway speeds of 40 miles per hour or more. Vehicles registered under this  
576 section shall be exempt from the requirements of § 46.2-1157. Nothing in this subsection shall be  
577 construed as prohibiting the transportation on specialized mobile equipment of safety equipment,  
578 including but not limited to highway traffic safety cones, to be used on a job site.

579 C. Specialized mobile equipment which cannot maintain a sustained highway speed in excess of 40  
580 miles per hour, and trailers or semitrailers which are designed and manufactured for a specific purpose  
581 and whose movement on the highway is incidental to the purpose for which it was manufactured and  
582 which are not designed or used to transport persons or property, shall not be required to be registered  
583 under this chapter.

584 § 46.2-702.1. *Distribution of certain revenue.*

585 A. *An amount equivalent to the net additional revenues generated by increases in the registration*  
586 *fees under §§ 46.2-694, 46.2-694.1, 46.2-697, 46.2-698, 46.2-700, and 46.2-730 pursuant to enactments*  
587 *of the 2006 Session of the General Assembly, shall be deposited by the Comptroller into the Virginia*  
588 *Urban Congestion Relief Fund established under § 33.1-23.1:01 and used as provided in such section.*

589 § 46.2-730. License plates for antique motor vehicles and antique trailers; fee.

590 A. On receipt of an application, the Commissioner shall issue appropriately designed license plates to  
591 owners of antique motor vehicles and antique trailers. These license plates shall be valid so long as title  
592 to the vehicle is vested in the applicant. The fee for the registration card and license plates of any of  
593 these vehicles shall be \$10\$20.

594 B. On receipt of an application, the Commissioner may authorize for use on antique motor vehicles  
595 and antique trailers Virginia license plates manufactured prior to 1976 and designed for use without  
596 decals, if such license plates are embossed with or are of the same year of issue as the model year of  
597 the antique motor vehicle or antique trailer on which they are to be displayed. Original metal year tabs  
598 issued in place of license plates for years 1943 and 1953 and used with license plates issued in 1942  
599 and 1952, respectively, also may be authorized by the Commissioner for use on antique motor vehicles  
600 and antique trailers that are of the same model year as the year the metal tab was originally issued.  
601 These license plates and metal tabs shall remain valid so long as title to the vehicle is vested in the  
602 applicant. The fee for the registration card and permission to use the license plates and metal tabs on  
603 any of these vehicles shall be \$10\$20.

604 C. Notwithstanding the provisions of §§ 46.2-711 and 46.2-715, antique motor vehicles may display  
605 single license plates if the original manufacturer's design of the antique motor vehicles allows for the  
606 use of only single license plates or if the license plate was originally issued in one of the following  
607 years and is displayed in accordance with the provisions of subsection B of this section: 1906, 1907,  
608 1908, 1909, 1945, or 1946.

D. Except as provided in subsection E of this section, motor vehicles and trailers registered with license plates issued under this section shall not be used for general transportation purposes, including, but not limited to, daily travel to and from the owner's place of employment, but shall only be used:

1. For participation in club activities, exhibits, tours, parades, and similar events; and
2. On the highways of the Commonwealth for the purpose of testing their operation, obtaining repairs or maintenance, transportation to and from events as described in subdivision 1 of this subsection, and for occasional pleasure driving not exceeding 250 miles from the residence of the owner.

E. Notwithstanding the foregoing provision of this section, antique motor vehicles and antique trailers displaying license plates issued pursuant to subsections B and C of this section may be used for general transportation purposes if the following conditions are met:

1. The physical condition of the vehicle's license plate or plates has been inspected and approved by the Department;
2. The license plate or plates are registered to the specific vehicle by the Department;
3. The owner of the vehicle periodically registers the vehicle with the Department and pays a registration fee for the vehicle equal to that which would be charged to obtain regular state license plates for that vehicle;
4. The vehicle passes a periodic safety inspection as provided in Article 21 (§ 46.2-1157 et seq.) of Chapter 10 of this title;
5. The vehicle displays current decals attached to the license plate, issued by the Department, indicating the valid registration period for the vehicle; and
6. When applicable, the vehicle meets the requirement of Article 22 (§ 46.2-1176 et seq.) of Chapter 10 of this title.

If more than one request is made for use, as provided in this subsection, of license plates having the same number, the Department shall accept only the first such application. Only vehicles titled to the person seeking to use license plates as provided in this subsection shall be eligible to use license plates as provided in this subsection.

F. Nothing in this section shall be construed as prohibiting the use of an antique motor vehicle to tow a trailer or semitrailer.

§ 46.2-752. Taxes and license fees imposed by counties, cities, and towns; limitations on amounts; disposition of revenues; requiring evidence of payment of personal property taxes and certain fines; prohibiting display of licenses after expiration; failure to display valid local license required by other localities; penalty.

A. Except as provided in § 46.2-755, counties, cities, and towns may levy and assess taxes and charge license fees on motor vehicles, trailers, and semitrailers. However, none of these taxes and license fees shall be assessed or charged by any county on vehicles owned by residents of any town located in the county when such town constitutes a separate school district if the vehicles are already subject to town license fees and taxes, nor shall a town charge a license fee to any new resident of the town, previously a resident of a county within which all or part of the town is situated, who has previously paid a license fee for the same tax year to such county. The amount of the license fee or tax imposed by any county, city, or town on any motor vehicle, trailer, or semitrailer shall not be greater than the amount of the license tax imposed by the Commonwealth on the motor vehicle, trailer, or semitrailer. The license fees and taxes shall be imposed in such manner, on such basis, for such periods, and subject to proration for fractional periods of years, as the proper local authorities may determine. Local licenses may be issued free of charge for any or all of the following:

1. Vehicles powered by clean special fuels as defined in § 46.2-749.3, including dual-fuel and bi-fuel vehicles,
2. Vehicles owned by volunteer rescue squads,
3. Vehicles owned by volunteer fire departments,
4. Vehicles owned or leased by active members or active auxiliary members of volunteer rescue squads,
5. Vehicles owned or leased by active members or active auxiliary members of volunteer fire departments,
6. Vehicles owned or leased by auxiliary police officers,
7. Vehicles owned or leased by volunteer police chaplains,
8. Vehicles owned by surviving spouses of persons qualified to receive special license plates under § 46.2-739,
9. Vehicles owned or leased by auxiliary deputy sheriffs or volunteer deputy sheriffs,
10. Vehicles owned by persons qualified to receive special license plates under § 46.2-739,
11. Vehicles owned by any of the following who served at least 10 years in the locality: former members of volunteer rescue squads, former members of volunteer fire departments, former auxiliary police officers, former volunteer police chaplains, and former volunteer special police officers appointed

under § 15.2-1737. In the case of active members of volunteer rescue squads and volunteer fire departments, applications for such licenses shall be accompanied by written evidence, in a form acceptable to the locality, of their active membership, and no member shall be issued more than one such license free of charge, or

12. All vehicles having a situs for the imposition of licensing fees under this section in the locality.

The governing body of any county, city, or town issuing licenses under this section may by ordinance provide for a 50 percent reduction in the fee charged for the issuance of any such license issued for any vehicle owned or leased by any person who is 65 years old or older. No such discount, however, shall be available for more than one vehicle owned or leased by the same person.

The governing body of any county, city, or town issuing licenses free of charge under this subsection may by ordinance provide for (i) the limitation, restriction, or denial of such free issuance to an otherwise qualified applicant, including without limitation the denial of free issuance to a taxpayer who has failed to timely pay personal property taxes due with respect to the vehicle and (ii) the grounds for such limitation, restriction, or denial.

The situs for the imposition of licensing fees under this section shall in all cases, except as hereinafter provided, be the county, city, or town in which the motor vehicle, trailer, or semitrailer is normally garaged, stored, or parked. If it cannot be determined where the personal property is normally garaged, stored, or parked, the situs shall be the domicile of its owner. In the event the owner of the motor vehicle is a full-time student attending an institution of higher education, the situs shall be the domicile of such student, provided the student has presented sufficient evidence that he has paid a personal property tax on the motor vehicle in his domicile.

B. ~~The~~ *Except as provided in this subsection, subsection L, and § 46.2-753, all revenue derived from all county, city, or town taxes and license fees imposed on motor vehicles, trailers, or semitrailers shall be applied to general county, city, or town purposes. However, if a county, city, or town imposes a license fee or tax pursuant to this section in excess of the maximum amount authorized as of June 30, 2006, an amount approximately equal to one-half of the revenues collected by the county, city, or town that are attributable to the increase in such fee or tax above such maximum amount shall be used by the county, city, or town for local or regional capital projects directly relating to transportation, including debt service payments on any obligations authorized and issued on or after July 1, 2006.*

C. A county, city, or town may require that no motor vehicle, trailer, or semitrailer shall be locally licensed until the applicant has produced satisfactory evidence that all personal property taxes on the motor vehicle, trailer, or semitrailer to be licensed have been paid and satisfactory evidence that any delinquent motor vehicle, trailer, or semitrailer personal property taxes owing have been paid which have been properly assessed or are assessable against the applicant by the county, city, or town. A county, city, or town may also provide that no motor vehicle license shall be issued unless the tangible personal property taxes properly assessed or assessable by that locality on any tangible personal property used or usable as a dwelling titled by the Department of Motor Vehicles and owned by the taxpayer have been paid. Any county and any town within any such county may by agreement require that all personal property taxes assessed by either the county or the town on any vehicle be paid before licensure of such vehicle by either the county or the town.

C1. Any county having a population of at least 24,000, but no more than 24,600, or having a population of at least 39,550, but no more than 41,550, may, by ordinance or resolution adopted after public notice and hearing and, with the consent of the treasurer, require that no license may be issued under this section unless the applicant has produced satisfactory evidence that all fees, including delinquent fees, payable to such county or local solid waste authority, for the disposal of solid waste pursuant to the Virginia Water and Waste Authorities Act (§ 15.2-5100 et seq.), or pursuant to § 15.2-2159, have been paid in full. For purposes of this subsection, all fees, including delinquent fees, payable to a county for waste disposal services described herein, shall be paid to the treasurer of such county; however, in any county with a population between 39,550 and 41,550, the fee shall be paid to the county or its agent.

D. The Counties of Arlington, Fairfax, Loudoun, and Prince William and towns within them and any city may require that no motor vehicle, trailer, or semitrailer shall be licensed by that jurisdiction unless all fines owed to the jurisdiction by the owner of the vehicle, trailer, or semitrailer for violation of the jurisdiction's ordinances governing parking of vehicles have been paid. The provisions of this subsection shall not apply to vehicles owned by firms or companies in the business of renting motor vehicles.

E. If in any county imposing license fees and taxes under this section, a town therein imposes like fees and taxes on vehicles of owners resident in the town, the owner of any vehicle subject to the fees or taxes shall be entitled, on the owner's displaying evidence that he has paid the fees or taxes, to receive a credit on the fees or taxes imposed by the county to the extent of the fees or taxes he has paid to the town. Nothing in this section shall deprive any town now imposing these licenses and taxes from increasing them or deprive any town not now imposing them from hereafter doing so, but subject to the limitations provided in subsection D of this section. The governing body of any county and the

governing body of any town in that county wherein each imposes the license tax herein provided may provide mutual agreements so that not more than one license plate or decal in addition to the state plate shall be required.

F. Notwithstanding the provisions of subsection E of this section, in a consolidated county wherein a tier-city exists, the tier-city may, in accordance with the provisions of the agreement or plan of consolidation, impose license fees and taxes under this section in addition to those fees and taxes imposed by the county, provided that the combined county and tier-city rates do not exceed the maximum provided in subsection A of this section. No credit shall be allowed on the fees or taxes imposed by the county for fees or taxes paid to the tier-city, except as may be provided by the consolidation agreement or plan. The governing body of any county and the governing body of any tier-city in such county wherein each imposes the license tax herein may provide by mutual agreement that no more than one license plate or decal in addition to the state license plate shall be required.

G. Any county, city, or town may by ordinance provide that it shall be unlawful for any owner or operator of a motor vehicle, trailer, or semitrailer to fail to obtain and display the local license required by any ordinance of the county, city or town in which the vehicle is registered or to display upon a motor vehicle, trailer, or semitrailer any such local license after its expiration date. The ordinance may provide that a violation shall constitute a misdemeanor the penalty for which shall not exceed that of a Class 4 misdemeanor and may, in the case of a motor vehicle registered to a resident of the locality where such vehicle is registered, authorize the issuance by local law-enforcement officers of citations, summonses, parking tickets, or uniform traffic summonses for violations. Any such ordinance may also provide that a violation of the ordinance by the registered owner of the vehicle may not be discharged by payment of a fine except upon presentation of satisfactory evidence that the required license has been obtained.

H. Except as provided by subsections E and F, no vehicle shall be subject to taxation under the provisions of this section in more than one jurisdiction.

I. Purchasers of new or used motor vehicles shall be allowed at least a 10-day grace period, beginning with the date of purchase, during which to pay license fees charged by local governments under authority of this section.

J. Beginning October 1, 1992, the treasurer or director of finance of any county, city, or town may enter into an agreement with the Commissioner whereby the Commissioner will refuse to issue or renew any vehicle registration of any applicant therefor who owes to such county, city or town any local vehicle license fees or delinquent tangible personal property tax or parking citations issued only to residents of such county, city, or town. Before being issued any vehicle registration or renewal of such license or registration by the Commissioner, the applicant shall first satisfy all such local vehicle license fees and delinquent taxes or parking citations and present evidence satisfactory to the Commissioner that all such local vehicle license fees and delinquent taxes or parking citations have been paid in full. The Commissioner shall charge a reasonable fee to cover the costs of such enforcement action, and the treasurer or director of finance may add the cost of this fee to the delinquent tax bill or the amount of the parking citation. The treasurer or director of finance of any county, city, or town seeking to collect delinquent taxes or parking citations through the withholding of registration or renewal thereof by the Commissioner as provided for in this subsection shall notify the Commissioner in the manner provided for in his agreement with the Commissioner and supply to the Commissioner information necessary to identify the debtor whose registration or renewal is to be denied. Any agreement entered into pursuant to the provisions of this subsection shall provide the debtor notice of the intent to deny renewal of registration at least 30 days prior to the expiration date of a current vehicle registration. For the purposes of this subsection, notice by first-class mail to the registrant's address as maintained in the records of the Department of Motor Vehicles shall be deemed sufficient. In the case of parking violations, the Commissioner shall only refuse to issue or renew the vehicle registration of any applicant therefor pursuant to this subsection for the vehicle that incurred the parking violations. The provisions of this subsection shall not apply to vehicles owned by firms or companies in the business of renting motor vehicles.

K. The governing bodies of any two or more counties, cities, or towns may enter into compacts for the regional enforcement of local motor vehicle license requirements. The governing body of each participating jurisdiction may by ordinance require the owner or operator of any motor vehicle, trailer, or semitrailer to display on his vehicle a valid local license issued by another county, city, or town that is a party to the regional compact, provided that the owner or operator is required by the jurisdiction of situs, as provided in § 58.1-3511, to obtain and display such license. The ordinance may also provide that no motor vehicle, trailer, or semitrailer shall be locally licensed until the applicant has produced satisfactory evidence that (i) all personal property taxes on the motor vehicle, trailer, or semitrailer to be licensed have been paid to all participating jurisdictions and (ii) any delinquent motor vehicle, trailer, or semitrailer personal property taxes that have been properly assessed or are assessable by any

793 participating jurisdiction against the applicant have been paid. Any city and any county having the urban  
794 county executive form of government, the counties adjacent to such county and towns within them may  
795 require that no motor vehicle, trailer, or semitrailer shall be licensed by that jurisdiction or any other  
796 jurisdiction in the compact unless all fines owed to any participating jurisdiction by the owner of the  
797 vehicle for violation of any participating jurisdiction's ordinances governing parking of vehicles have  
798 been paid. The ordinance may further provide that a violation shall constitute a misdemeanor the penalty  
799 for which shall not exceed that of a Class 4 misdemeanor. Any such ordinance may also provide that a  
800 violation of the ordinance by the owner of the vehicle may not be discharged by payment of a fine  
801 except upon presentation of satisfactory evidence that the required license has been obtained. The  
802 provisions of this subsection shall not apply to vehicles owned by firms or companies in the business of  
803 renting motor vehicles.

804 L. In addition to the taxes and license fees permitted in subsection A, counties, cities, and towns may  
805 charge a license fee of no more than \$1 per motor vehicle, trailer, and semitrailer. Except for the  
806 provisions of subsection B, such fee shall be subject to all other provisions of this section. All funds  
807 collected pursuant to this subsection shall be paid pursuant to § 51.1-1204 to the Volunteer Firefighters'  
808 and Rescue Squad Workers' Service Award Fund to the accounts of all members of the Fund who are  
809 volunteers for fire departments or rescue squads within the jurisdiction of the particular county, city, or  
810 town.

811 § 46.2-753. Additional license fees in certain localities.

812 Notwithstanding any other provision of law, the governing bodies of Alexandria, Arlington, Fairfax  
813 County, Fairfax City, and Falls Church are authorized to charge annual license fees, in addition to those  
814 specified in § 46.2-752, on passenger cars not used for the transportation of passengers for  
815 compensation. The additional fee shall be no more than five dollars. The total local license fee shall be  
816 no more than ~~twenty-five dollars~~ \$35 on any vehicle and this license fee shall not be imposed on any  
817 motor vehicle exempted under § 46.2-739.

818 The governing bodies are also authorized to charge additional annual license fees on the motor  
819 vehicles, trailers, and semitrailers as specified in § 46.2-697 in an amount of no more than five dollars  
820 for each such vehicle. This authorization shall not increase the maximum chargeable by more than five  
821 dollars or affect any existing exemption.

822 Any funds acquired in excess of those allowed by § 46.2-752, shall be allocated to the Northern  
823 Virginia Transportation Commission to be a credit to that jurisdiction making the payment for its share  
824 of any operating deficit assigned to it by the Washington Metropolitan Area Transit Authority. *However,*  
825 *if any of such counties or cities charge a license fee pursuant to this section that is in excess of the*  
826 *maximum amount authorized as of June 30, 2006, an amount approximately equal to one-half of the*  
827 *revenues collected by the county or city that is attributable to the increase in such license fee above*  
828 *such maximum amount shall be used by the county or city for local or regional capital projects directly*  
829 *relating to transportation, including debt service payments on any obligations authorized and issued on*  
830 *or after July 1, 2006.*

831 § 58.1-602. Definitions.

832 As used in this chapter, unless the context clearly shows otherwise, the term or phrase:

833 "Advertising" means the planning, creating, or placing of advertising in newspapers, magazines,  
834 billboards, broadcasting and other media, including, without limitation, the providing of concept, writing,  
835 graphic design, mechanical art, photography and production supervision. Any person providing  
836 advertising as defined herein shall be deemed to be the user or consumer of all tangible personal  
837 property purchased for use in such advertising.

838 "Amplification, transmission and distribution equipment" means, but is not limited to, production,  
839 distribution, and other equipment used to provide Internet-access services, such as computer and  
840 communications equipment and software used for storing, processing and retrieving end-user subscribers'  
841 requests.

842 "Business" includes any activity engaged in by any person, or caused to be engaged in by him, with  
843 the object of gain, benefit or advantage, either directly or indirectly.

844 "Cost price" means the actual cost of an item or article of tangible personal property computed in the  
845 same manner as the sales price as defined in this section without any deductions therefrom on account  
846 of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever.

847 "Custom program" means a computer program which is specifically designed and developed only for  
848 one customer. The combining of two or more prewritten programs does not constitute a custom  
849 computer program. A prewritten program that is modified to any degree remains a prewritten program  
850 and does not become custom.

851 "Distribution" means the transfer or delivery of tangible personal property for use, consumption, or  
852 storage by the distributee, and the use, consumption, or storage of tangible personal property by a  
853 person who has processed, manufactured, refined, or converted such property, but does not include the  
854 transfer or delivery of tangible personal property for resale or any use, consumption, or storage

otherwise exempt under this chapter.

"Gross proceeds" means the charges made or voluntary contributions received for the lease or rental of tangible personal property or for furnishing services, computed with the same deductions, where applicable, as for sales price as defined in this section over the term of the lease, rental, service, or use, but not less frequently than monthly.

"Gross sales" means the sum total of all retail sales of tangible personal property or services as defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" shall not include the federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the Internal Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the article, or the Virginia retail sales or use tax, or any sales or use tax imposed by any county or city under § 58.1-605 or 58.1-606.

"Import" and "imported" are words applicable to tangible personal property imported into the Commonwealth from other states as well as from foreign countries, and "export" and "exported" are words applicable to tangible personal property exported from the Commonwealth to other states as well as to foreign countries.

"In this Commonwealth" or "in the Commonwealth" means within the limits of the Commonwealth of Virginia and includes all territory within these limits owned by or ceded to the United States of America.

"Internet" means collectively, the myriad of computer and telecommunications facilities, which comprise the interconnected world-wide network of computer networks.

"Internet service" means a service that enables users to access proprietary and other content, information electronic mail, and the Internet as part of a package of services sold to end-user subscribers.

"Lease or rental" means the leasing or renting of tangible personal property and the possession or use thereof by the lessee or renter for a consideration, without transfer of the title to such property.

"Manufacturing, processing, refining, or conversion" includes the production line of the plant starting with the handling and storage of raw materials at the plant site and continuing through the last step of production where the product is finished or completed for sale and conveyed to a warehouse at the production site, and also includes equipment and supplies used for production line testing and quality control. The term "manufacturing" shall also include the necessary ancillary activities of newspaper and magazine printing when such activities are performed by the publisher of any newspaper or magazine for sale daily or regularly at average intervals not exceeding three months.

The determination whether any manufacturing, mining, processing, refining or conversion activity is industrial in nature shall be made without regard to plant size, existence or size of finished product inventory, degree of mechanization, amount of capital investment, number of employees or other factors relating principally to the size of the business. Further, "industrial in nature" shall include, but not be limited to, those businesses classified in codes 10 through 14 and 20 through 39 published in the Standard Industrial Classification Manual for 1972 and any supplements issued thereafter.

"Modular building" means, but shall not be limited to, single and multifamily houses, apartment units, commercial buildings, and permanent additions thereof, comprised of one or more sections that are intended to become real property, primarily constructed at a location other than the permanent site, built to comply with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.) as regulated by the Virginia Department of Housing and Community Development, and shipped with most permanent components in place to the site of final assembly. For purposes of this chapter, a modular building shall not include a mobile office as defined in § 58.1-2401 or any manufactured building subject to and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.).

"Modular building manufacturer" means a person or corporation who owns or operates a manufacturing facility and is engaged in the fabrication, construction and assembling of building supplies and materials into modular buildings, as defined in this section, at a location other than at the site where the modular building will be assembled on the permanent foundation and may or may not be engaged in the process of affixing the modules to the foundation at the permanent site.

"Modular building retailer" means any person who purchases or acquires a modular building from a modular building manufacturer, or from another person, for subsequent sale to a customer residing within or outside of the Commonwealth, with or without installation of the modular building to the foundation at the permanent site.

"Motor vehicle" means a "motor vehicle" as defined in § 58.1-2401, taxable under the provisions of the Virginia Motor Vehicles Sales and Use Tax Act (§ 58.1-2400 et seq.) and upon the sale of which all applicable motor vehicle sales and use taxes have been paid.

"Occasional sale" means a sale of tangible personal property not held or used by a seller in the course of an activity for which he is required to hold a certificate of registration, including the sale or

916 exchange of all or substantially all the assets of any business and the reorganization or liquidation of  
917 any business, provided such sale or exchange is not one of a series of sales and exchanges sufficient in  
918 number, scope and character to constitute an activity requiring the holding of a certificate of registration.

919 "Open video system" means an open video system authorized pursuant to 47 U.S.C. § 573 and, for  
920 purposes of this chapter only, shall also include Internet service regardless of whether the provider of  
921 such service is also a telephone common carrier.

922 "Person" includes any individual, firm, copartnership, cooperative, nonprofit membership corporation,  
923 joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver,  
924 auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit, body  
925 politic or political subdivision, whether public or private, or quasi-public, and the plural of such term  
926 shall mean the same as the singular.

927 "Prewritten program" means a computer program that is prepared, held or existing for general or  
928 repeated sale or lease, including a computer program developed for in-house use and subsequently sold  
929 or leased to unrelated third parties.

930 "Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in  
931 the form of tangible personal property or services taxable under this chapter, and shall include any such  
932 transaction as the Tax Commissioner upon investigation finds to be in lieu of a sale. All sales for resale  
933 must be made in strict compliance with regulations applicable to this chapter. Any dealer making a sale  
934 for resale which is not in strict compliance with such regulations shall be personally liable for payment  
935 of the tax.

936 The terms "retail sale" and a "sale at retail" shall specifically include the following: (i) the sale or  
937 charges for any room or rooms, lodgings, or accommodations furnished to transients for less than 90  
938 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any  
939 other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for  
940 a consideration; (ii) sales of tangible personal property to persons for resale when because of the  
941 operation of the business, or its very nature, or the lack of a place of business in which to display a  
942 certificate of registration, or the lack of a place of business in which to keep records, or the lack of  
943 adequate records, or because such persons are minors or transients, or because such persons are engaged  
944 in essentially service businesses, or for any other reason there is likelihood that the Commonwealth will  
945 lose tax funds due to the difficulty of policing such business operations; ~~and~~ (iii) the separately stated  
946 charge made for automotive refinish repair materials that are permanently applied to or affixed to a  
947 motor vehicle during its repair, *and (iv) the sale or charges for repairs or maintenance to self-propelled*  
948 *vehicles, including parts, labor, and service charges.* The Tax Commissioner is authorized to promulgate  
949 regulations requiring vendors of or sellers to such persons to collect the tax imposed by this chapter on  
950 the cost price of such tangible personal property to such persons and may refuse to issue certificates of  
951 registration to such persons.

952 The term "transient" shall not include a purchaser of camping memberships, time-shares,  
953 condominiums, or other similar contracts or interests that permit the use of, or constitute an interest in,  
954 real estate, however created or sold and whether registered with the Commonwealth or not. Further, a  
955 purchaser of a right or license which entitles the purchaser to use the amenities and facilities of a  
956 specific real estate project on an ongoing basis throughout its term shall not be deemed a transient;  
957 provided, however, that the term or time period involved is for seven years or more.

958 The terms "retail sale" and "sale at retail" shall not include a transfer of title to tangible personal  
959 property after its use as tools, tooling, machinery or equipment, including dies, molds, and patterns, if (i)  
960 at the time of purchase, the purchaser is obligated, under the terms of a written contract, to make the  
961 transfer and (ii) the transfer is made for the same or a greater consideration to the person for whom the  
962 purchaser manufactures goods.

963 "Retailer" means every person engaged in the business of making sales at retail, or for distribution,  
964 use, consumption, or storage to be used or consumed in the Commonwealth.

965 "Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional  
966 or otherwise, in any manner or by any means whatsoever, of tangible personal property and any  
967 rendition of a taxable service for a consideration, and includes the fabrication of tangible personal  
968 property for consumers who furnish, either directly or indirectly, the materials used in fabrication, and  
969 the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on  
970 the premises of the person furnishing, preparing, or serving such tangible personal property. A  
971 transaction whereby the possession of property is transferred but the seller retains title as security for the  
972 payment of the price shall be deemed a sale.

973 "Sales price" means the total amount for which tangible personal property or services are sold,  
974 including any services that are a part of the sale, valued in money, whether paid in money or otherwise,  
975 and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer,  
976 without any deduction therefrom on account of the cost of the property sold, the cost of materials used,  
977 labor or service costs, losses or any other expenses whatsoever. "Sales price" shall not include (i) any



cash discount allowed and taken (ii) finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other conditional contracts providing for deferred payments of the purchase price, or (iii) separately stated local property taxes collected. Where used articles are taken in trade, or in a series of trades as a credit or part payment on the sale of new or used articles, the tax levied by this chapter shall be paid on the net difference between the sales price of the new or used articles and the credit for the used articles.

"Self-propelled vehicles" means any antique motor vehicle, motor home, motorcycle, passenger car, pickup or panel truck, tractor truck, or truck as such terms are defined in § 46.2-100.

"Storage" means any keeping or retention of tangible personal property for use, consumption or distribution in the Commonwealth, or for any purpose other than sale at retail in the regular course of business.

"Tangible personal property" means personal property which may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. The term "tangible personal property" shall not include stocks, bonds, notes, insurance or other obligations or securities. The term "tangible personal property" shall include (i) telephone calling cards upon their initial sale, which shall be exempt from all other state and local utility taxes, and (ii) manufactured signs.

"Use" means the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it does not include the sale at retail of that property in the regular course of business. The term does not include the exercise of any right or power, including use, distribution, or storage, over any tangible personal property sold to a nonresident donor for delivery outside of the Commonwealth to a nonresident recipient pursuant to an order placed by the donor from outside the Commonwealth via mail or telephone. The term does not include any sale determined to be a gift transaction, subject to tax under § 58.1-604.6.

"Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as herein defined.

"Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers to those activities which are an integral part of the production of a product, including all steps of an integrated manufacturing or mining process, but not including ancillary activities such as general maintenance or administration. When used in relation to mining, it shall refer to the activities specified above, and in addition, any reclamation activity of the land previously mined by the mining company required by state or federal law.

"Video programmer" means a person or entity that provides video programming to end-user subscribers.

"Video programming" means video and/or information programming provided by or generally considered comparable to programming provided by a cable operator including, but not limited to, Internet service.

§ 58.1-609.5. Service exemptions.

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

1. Professional, insurance, or personal service transactions which involve sales as inconsequential elements for which no separate charges are made; services rendered by repairmen for which a separate charge is made, *with the exception of labor or service charges for repairs or maintenance to self-propelled vehicles*; and services not involving an exchange of tangible personal property which provide access to or use of the international network of computer systems commonly known as the Internet and any other related electronic communication service, including software, data, content and other information services delivered electronically via the Internet.

2. An amount separately charged for labor or services rendered in installing, applying, remodeling or repairing property sold, *with the exception of labor or service charges for repairs or maintenance to self-propelled vehicles*.

3. Transportation charges separately stated.

4. Separately stated charges for alterations to apparel, clothing and garments.

5. Charges for gift wrapping services performed by a nonprofit organization.

6. An amount separately charged for labor or services rendered in connection with the modification of prewritten programs as defined in § 58.1-602.

7. Custom programs as defined in § 58.1-602.

8. The sale or charges for any room or rooms, lodgings, or accommodations furnished to transients for more than 90 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space or accommodations are regularly furnished to transients for a consideration.

9. Beginning January 1, 1996, maintenance contracts, the terms of which provide for both repair or replacement parts and repair labor, shall be subject to tax upon one-half of the total charge for such

contracts only. *However, any such maintenance contract for the repair or maintenance of a self-propelled vehicle shall be subject to tax upon the total charge for such contract.* Persons providing maintenance pursuant to such a contract may purchase repair or replacement parts under a resale certificate of exemption. Warranty plans issued by an insurance company, which constitute insurance transactions, are subject to the provisions of subdivision 1 above.

*10. Separately stated charges for repairs or maintenance to self-propelled vehicles pursuant to a safety recall.*

*11. Separately stated charges for a safety inspection of a self-propelled vehicle provided that such charges are in accordance with law.*

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

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

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

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

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

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

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

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

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

Of the remaining amount:

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

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

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

4. There is hereby created in the Department of the Treasury a special nonreverting fund which shall

be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Mass Transit Fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

f. The remaining 25 percent shall be distributed for capital purposes on the basis of 95 percent of the nonfederal share for federal projects and 95 percent of the total costs for nonfederal projects. In the event that total capital funds available under this subdivision are insufficient to fund the complete list of eligible projects, the funds shall be distributed to each transit property in the same proportion that such capital expenditure bears to the statewide total of capital projects.

g. There is hereby created in the Department of the Treasury a special nonreverting fund known as the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be established on the books of the Comptroller and consist of such moneys as are appropriated to it by the General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given, bequeathed, granted, or otherwise made available to the Commonwealth Transit Capital Fund. Any funds remaining in the Commonwealth Transit Capital Fund at the end of the biennium shall not revert to the general fund, but shall remain in the Commonwealth Transit Capital Fund. Interest earned on funds within the Commonwealth Transit Capital Fund shall remain in and be credited to the Commonwealth Transit Capital Fund. Proceeds of the Commonwealth Transit Capital Fund may be paid to any political subdivision, another public entity created by an act of the General Assembly, or a private entity as

defined in § 56-557 and for purposes as enumerated in subdivision 4c of § 33.1-269 or expended by the Department of Rail and Public Transportation for the purposes specified in this subdivision. Revenues of the Commonwealth Transit Capital Fund shall be used to support capital expenditures involving the establishment, improvement, or expansion of public transportation services through specific projects approved by the Commonwealth Transportation Board. Projects financed by the Commonwealth Transit Capital Fund shall receive local, regional or private funding for at least 20 percent of the nonfederal share of the total project cost.

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

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

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

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

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

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

D. The net revenue so distributable among the counties and cities shall be apportioned and distributed upon the basis 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.

E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment, wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used, in part, to defray the cost of law enforcement. Not later than 30 days after the close of each quarter, the Comptroller shall transfer to the Game Protection Fund the appropriate amount of collections to be dedicated to such Fund. At any time that the balance in the Capital Improvement Fund, established under § 29.1-101.1, 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. 1. Of the net revenue generated from the one-half percent increase in the rate of the state sales and use tax effective August 1, 2004, pursuant to enactments of the 2004 Special Session I of the General Assembly, the Comptroller shall transfer from the general fund of the state treasury to the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund established under § 58.1-638.1 an amount equivalent to one-half of the net revenue generated from such one-half percent increase as provided in this subdivision. The transfers to the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund under this subdivision shall be for one-half of the net revenue generated (and collected in the succeeding month) from such one-half percent increase for the month of August 2004 and for each month thereafter.

2. For the purposes of the Comptroller making the required transfers under subdivision 1, 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. *An amount equivalent to the net additional revenues, as determined by the Tax Commissioner, generated by the state sales and use tax imposed on the sale or charges for repairs or maintenance to self-propelled vehicles (including revenues from the increase in the rate of such tax imposed on maintenance contracts for the repair or maintenance of a self-propelled vehicle), pursuant to enactments of the 2006 Session of the General Assembly, shall be deposited by the Comptroller into the Virginia Urban Congestion Relief Fund established under § 33.1-23.1:01 and the Commonwealth Transportation Fund. For every \$1 in such revenue collected, the Comptroller shall deposit \$0.77 into the Virginia Urban Congestion Relief Fund and \$0.23 into the Commonwealth Transportation Fund.*

*The Tax Commissioner shall provide a monthly certification to the Comptroller reporting such revenues generated in the preceding month. The certification for each month shall be provided to the Comptroller no later than the twentieth of the immediately following month. The Comptroller shall make the required deposit into the Fund for each month's revenues no later than the last day of the immediately following month.*

GH. 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.

HI. 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 cents per gallon on gasoline and gasohol.

B. There is hereby levied a tax at the rate of ~~sixteen~~ *seventeen 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 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~~ *seventeen 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~~ *seventeen 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 fuel only for the purpose of supplying fuel to operate the vehicle. There is hereby levied a tax at a rate

equivalent to ~~sixteen~~ *seventeen and one-half* cents per gallon on all other alternative fuel used to operate a highway vehicle. The Commissioner shall determine the equivalent rate applicable to such other alternative fuels.

B. In addition to any tax imposed by this article, there is hereby levied an annual license tax of ~~fifty dollars~~ \$70 per vehicle on each highway vehicle that is fueled from a private source if the alternative fuels tax levied under this article has not been paid on fuel used in the vehicle. If such a highway vehicle is not in operation by January 1 of any year, the license tax shall be reduced by one-twelfth for each complete month which shall have elapsed since the beginning of such year.

Article 8.1.

Additional Taxes.

§ 58.1-2288.1. Additional taxes on fuels.

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

B. The tax imposed under subsection A shall be imposed at a cents per gallon rate determined by the Commissioner. Such tax shall be imposed at a cents per gallon rate equal to 2.0 percent of the statewide average retail price of a gallon of self-serve unleaded regular gasoline for the applicable base period, excluding federal and state excise taxes, as determined by the Commissioner rounded up to the nearest one-tenth of one cent. Beginning July 1, 2007, such tax shall be imposed at a cents per gallon rate equal to 3.0 percent of the statewide average retail price of a gallon of self-serve unleaded regular gasoline for the applicable base period; beginning July 1, 2008, such tax shall be imposed at a cents per gallon rate equal to 4.0 percent; and beginning on July 1, 2009, and thereafter such tax shall be imposed at a cents per gallon rate equal to 5.0 percent.

In computing the cents per gallon tax, the Commissioner shall use two base periods. The period from April 1 through September 30 of the current calendar year shall be the base period for purposes of determining the cents per gallon tax for January 1 through June 30 of the subsequent calendar year, inclusive. The period from October 1 through March 31 of the subsequent year shall be the base period for purposes of determining the cents per gallon tax for July 1 through December 31 of the subsequent calendar year, inclusive.

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

D. The tax imposed under subsection A shall be due and paid by such licensee or person at the same time that the tax under § 58.1-2217 or § 58.1-2249, as applicable, is due. All provisions of this chapter including but not limited to return filing and reporting requirements, payment requirements and due dates for payment of tax, requirements to precollect tax, late payment penalties and interest, jeopardy assessments, civil penalties, discounts, deductions, and exemptions from tax shall apply *mutatis mutandis* to the additional tax imposed under this section.

§ 58.1-2289. Disposition of tax revenue generally.

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

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

The Governor is hereby authorized to transfer out of such fund an amount necessary for the

inspection of gasoline and motor grease measuring and distributing equipment, and for the inspection and analysis of gasoline for purity.

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

C. One-half cent of the tax collected on each gallon of fuel on which ~~thea~~ refund has been paid ~~at the rate of seventeen cents per gallon, or in the case of diesel fuel, fifteen and one-half cents per gallon for gasoline, gasohol, diesel fuel, blended fuel, and 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 the additional revenues generated by increases in the rates of taxes and the imposition of new taxes under this chapter pursuant to enactments of the 2006 Session of the General Assembly and 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 § 33.1-223, a sum as established by the General Assembly.

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

*F. An amount equivalent to the net additional revenues, as determined by the Commissioner, generated by increases in the rates of taxes and the imposition of new taxes under this chapter pursuant to enactments of the 2006 Session of the General Assembly shall be deposited by the Comptroller into the Highway Maintenance and Operating Fund, the Commonwealth Transit Capital Fund, the Virginia Urban Congestion Relief Fund established under § 33.1-23.1:01, and the Virginia Rural Transportation Fund established under § 33.1-23.1:02. All such revenues from the increase in the tax on diesel fuel and the taxes on alternative fuels from sixteen cents per gallon to seventeen and one-half cents per gallon shall be deposited by the Comptroller into the Virginia Urban Congestion Relief Fund established under § 33.1-23.1:01. For every \$1 in revenue collected from the tax imposed under § 58.1-2288.1, the Comptroller shall deposit \$0.44 into the Highway Maintenance and Operating Fund, \$0.22 into the Commonwealth Transit Capital Fund, and \$0.34 into the Virginia Rural Transportation Fund.*

*The Commissioner shall provide a monthly certification to the Comptroller reporting such net additional revenues generated in the preceding month. The certification for each month shall be provided to the Comptroller no later than the twentieth of the immediately following month. The Comptroller shall make the required deposits into the Funds for each month's revenues no later than the*

1408 *last day of the immediately following month.*

1409 § 58.1-2402. Levy.

1410 A. There is hereby levied, in addition to all other taxes and fees of every kind now imposed by law,  
1411 a tax upon the sale or use of motor vehicles in Virginia, other than (i) vehicles with a gross vehicle  
1412 weight rating or gross combination weight rating of 26,001 pounds or more, or (ii) a sale to or use by a  
1413 person for rental as an established business or part of an established business or incidental or germane to  
1414 such business.

1415 There shall also be levied a tax upon the rental of a motor vehicle in Virginia, without regard to  
1416 whether such vehicle is required to be licensed by the Commonwealth. However, such tax shall not be  
1417 levied upon a rental to a person for re-rental as an established business or part of an established  
1418 business, or incidental or germane to such business.

1419 The amount of the tax to be collected shall be determined by the Commissioner by the application of  
1420 the following rates against the gross sales price or gross proceeds:

1421 1. Three percent and one-half percent through midnight on June 30, 2007, 4.0% beginning July 1,  
1422 2007, through midnight on June 30, 2008, 4.5% beginning July 1, 2008, through midnight on June 30,  
1423 2009, and 5.0% on and after July 1, 2009, of the sale price of each motor vehicle sold in Virginia. If  
1424 such motor vehicle is a manufactured home as defined in § 36-85.3, the tax shall be three percent of the  
1425 sale price of each such manufactured home sold in this Commonwealth; if such vehicle is a mobile  
1426 office as defined in § 58.1-2401, the tax shall be two percent of the sale price of each mobile office sold  
1427 in this Commonwealth.

1428 2. Three percent and one-half percent through midnight on June 30, 2007, 4.0% beginning July 1,  
1429 2007, through midnight on June 30, 2008, 4.5% beginning July 1, 2008, through midnight on June 30,  
1430 2009, and 5.0% on and after July 1, 2009, of the sale price of each motor vehicle, ~~or three percent of~~  
1431 ~~the sale price of each manufactured home as defined in § 36-85.3, or two percent of the sale price of~~  
1432 ~~each mobile office as defined in § 58.1-2401, not sold in Virginia but used or stored for use in this~~  
1433 ~~Commonwealth. Three percent of the sale price of each manufactured home as defined in § 36-85.3, or~~  
1434 ~~2.0% of the sale price of each mobile office as defined in § 58.1-2401, not sold in Virginia but used or~~  
1435 ~~stored for use in this Commonwealth.~~ When any such motor vehicle or manufactured home is first used  
1436 or stored for use in Virginia six months or more after its acquisition, the tax shall be based on its  
1437 current market value.

1438 3. Four percent of the gross proceeds from the rental in Virginia of any motor vehicle, except those  
1439 with a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more.

1440 4. In addition to the tax levied pursuant to subdivision A 3, a tax of four percent of the gross  
1441 proceeds shall be levied on the rental in Virginia of any daily rental vehicle, whether or not such vehicle  
1442 is required to be licensed in the Commonwealth.

1443 5. In addition to all other applicable taxes and fees, a fee of two percent of the gross proceeds shall  
1444 be imposed on the rental in Virginia of any daily rental vehicle, whether or not such vehicle is required  
1445 to be licensed in the Commonwealth. For purposes of this chapter, the rental fee shall be implemented,  
1446 enforced, and collected in the same manner that rental taxes are implemented, enforced, and collected.

1447 6. The minimum tax levied on the sale of any motor vehicle in the Commonwealth shall be \$35,  
1448 except as provided by those exemptions defined in § 58.1-2403.

1449 B. A transaction taxed under subdivision A 1 shall not also be taxed under subdivision A 2, nor shall  
1450 the same transaction be taxed more than once under either subdivision. A motor vehicle subject to the  
1451 tax imposed under subdivision A 3 shall be subject to the tax under either subdivision A 1 or A 2 when  
1452 it ceases to be used for rental as an established business or part of an established business, or incidental  
1453 or germane to such business.

1454 C. Any motor vehicle, trailer or semitrailer exempt from this tax under subdivision 1 or 2 of  
1455 § 58.1-2403 shall be subject to the tax, based on the current market value when such vehicle is no  
1456 longer owned, rented or used by the United States government or any governmental agency, or the  
1457 Commonwealth of Virginia or any political subdivision thereof. Further, any motor vehicle, trailer or  
1458 semitrailer exempt from the tax imposed by this chapter under subdivision 11 of § 58.1-2403 or  
1459 §§ 46.2-663 through 46.2-674 shall be subject to the tax, based on the current market value, when such  
1460 vehicle is subsequently licensed to operate on the highways of this Commonwealth.

1461 D. Any person who with intent to evade or to aid another person to evade the tax provided for  
1462 herein, falsely states the selling price of a vehicle on a bill of sale, assignment of title, application for  
1463 title, or any other document or paper submitted to the Commissioner pursuant to any provisions of this  
1464 title or Title 46.2, shall be guilty of a Class 3 misdemeanor.

1465 E. Effective January 1, 1997, any amount designated as a "processing fee" and any amount charged  
1466 by a dealer for processing a transaction, which is required to be included on a buyer's order pursuant to  
1467 subdivision 10 of § 46.2-1530, shall be subject to the tax.

1468 § 58.1-2425. Disposition of revenues.

1469 A. All funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury.



Except as otherwise provided in this section, these funds shall constitute special funds within the Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds shall accrue to these funds. The revenue so derived, after refunds have been deducted, is hereby allocated for the construction, reconstruction and maintenance of highways and the regulation of traffic thereon and for no other purpose. However, (i) all funds collected pursuant to the provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the city, town, or county wherein such manufactured home is to be situated as a dwelling; (ii) all funds collected from the additional tax imposed by subdivision A 4 of § 58.1-2402 on the rental of daily rental vehicles shall be distributed quarterly to the city, town, or county wherein such vehicle was delivered to the rentee; (iii) effective January 1, 1987, an amount equivalent to the net additional revenues generated by enactments of the 1986 Special Session of the Virginia General Assembly which amended §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402 and this section shall be distributed to and paid into the Transportation Trust Fund, a special fund within the Commonwealth Transportation Fund, and are hereby appropriated to the Commonwealth Transportation Board for transportation needs; (iv) except as otherwise provided in clause (iii) of this sentence, all moneys collected from the tax on the gross proceeds from the rental in Virginia of any motor vehicle pursuant to subdivision A 3 of § 58.1-2402 at the tax rate in effect on December 31, 1986, shall be paid by the Commissioner into the state treasury and shall be paid into the Rail Enhancement Fund established by § 33.1-221.1:1.1; and (v) all additional revenues resulting from the fee imposed under subdivision A 5 of § 58.1-2402 as enacted by the 2004 Session of the General Assembly shall be used to pay the debt service on the bonds issued by the Virginia Public Building Authority for the Statewide Agencies Radio System (STARS) for the Department of State Police pursuant to the authority granted by the 2004 Session of the General Assembly; and (vi) *an amount equivalent to the net additional revenues generated by increases in the rates of taxes under subdivisions A 1 and A 2 of § 58.1-2402 pursuant to enactments of the 2006 Session of the General Assembly, shall be deposited by the Comptroller into the Virginia Urban Congestion Relief Fund established under § 33.1-23.1:01, the Virginia Rural Transportation Fund established under § 33.1-23.1:02, the Rail Enhancement Fund established under § 33.1-221.1:1.1, and the Shortline Railway Preservation and Development Fund established under § 33.1-221.1:1.2, and used as provided in such sections, respectively. For purposes of the Comptroller's deposits under clause (vi), for every \$1 in revenue collected pursuant to enactments of the 2006 Session of the General Assembly, the Comptroller shall deposit \$0.78 into Virginia Urban Congestion Relief Fund, \$0.11 into the Virginia Rural Transportation Fund, \$0.10 into the Rail Enhancement Fund, and \$.01 into the Shortline Railway Preservation and Development Fund.*

B. As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation Trust Fund pursuant to clause (iii) of subsection A of this section, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit Fund.

§ 58.1-2531. *Distribution of certain revenue.*

*Beginning with the Commonwealth's 2006-2007 fiscal year and for each fiscal year thereafter, all revenues collected by the Commission from the tax imposed under this chapter shall, beginning July 1 of each such year, be deposited into the Virginia Urban Congestion Relief Fund established under § 33.1-23.1:01 until the amount deposited into the Fund pursuant to this section equals the revenues collected from such tax for the immediately preceding license year which were attributable to any policy of motor vehicle insurance as defined in § 38.2-124, including any motor vehicle insurance included in a combination policy as defined in § 38.2-1921. The Comptroller shall make the deposits into the Fund as soon as practicable.*

*For purposes of the Comptroller's deposits into the Fund, the Commissioner of the Bureau of Insurance shall, no later than July 15 of each year, provide a written certification to the Comptroller that reports the amount to be deposited into the Fund in the fiscal year as required under this section. After the required amount has been deposited into the Virginia Urban Congestion Relief Fund, the Comptroller shall deposit all remaining revenues collected in the fiscal year from the tax imposed under this chapter into the general fund of the state treasury.*

§ 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-one 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

1531 motor carrier by any other provision of law.

1532 B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles  
1533 that are not registered under the International Registration Plan shall pay a fee of ~~\$100~~\$150 per year for  
1534 each qualified highway vehicle. The fee is due and payable when the vehicle registration fees are paid  
1535 pursuant to the provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2.

1536 If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due  
1537 at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration  
1538 expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the  
1539 registration fee paid is authorized by law.

1540 C. All taxes and fees paid under the provisions of this chapter shall be credited to the Highway  
1541 Maintenance and Operating Fund, a special fund within the Commonwealth Transportation Fund.

1542 § 58.1-2706. Credit for payment of motor fuel, diesel fuel or liquefied gases tax.

1543 A. Every motor carrier subject to the road tax shall be entitled to a credit on such tax equivalent to  
1544 ~~sixteen~~*seventeen and one-half* cents per gallon on all motor fuel, diesel fuel and liquefied gases  
1545 purchased by such carrier within the Commonwealth for use in its operations either within or without  
1546 the Commonwealth and upon which the motor fuel, diesel fuel or liquefied gases tax imposed by the  
1547 laws of the Commonwealth has been paid by such carrier. Evidence of the payment of such tax in such  
1548 form as may be required by, or is satisfactory to, the Department shall be furnished by each carrier  
1549 claiming the credit herein allowed.

1550 B. When the amount of the credit to which any motor carrier is entitled for any quarter exceeds the  
1551 amount of the tax for which such carrier is liable for the same quarter, the excess may: (i) be allowed as  
1552 a credit on the tax for which such carrier would be otherwise liable for any of the eight succeeding  
1553 quarters or (ii) be refunded, upon application, duly verified and presented and supported by such  
1554 evidence as may be satisfactory to the Department.

1555 C. The Department may allow a refund upon receipt of proper application and review. It shall be at  
1556 the discretion of the Department to determine whether an audit is required.

1557 D. The refund may be allowed without a formal hearing if the amount of refund is agreed to by the  
1558 applicant. Otherwise, a formal hearing on the application shall be held by the Department after notice of  
1559 not less than ten days to the applicant and the Attorney General.

1560 E. Whenever any refund is ordered it shall be paid out of the Highway Maintenance and  
1561 Construction Fund.

1562 F. Whenever a person operating under lease to a motor carrier to perform transport services on  
1563 behalf of the carrier purchases motor fuel, diesel fuel or liquefied gases relating to such services, such  
1564 payments or purchases may, at the discretion of the Department, be considered payment or purchases by  
1565 the carrier.

1566 2. That the provisions of this act amending §§ 58.1-602, 58.1-609.5, and 58.1-638 shall be effective  
1567 on July 1, 2008. However, the provisions of this act amending § 58.1-609.5 providing for a tax  
1568 upon the total charge for a maintenance contract, the terms of which provide for both repair or  
1569 replacement parts and repair labor, shall be applicable for any such contracts entered into on or  
1570 after July 1, 2008.

1571 3. That the period October 1, 2005, through March 31, 2006, shall be the base period used by the  
1572 Commissioner of the Department of Motor Vehicles for purposes of determining the additional  
1573 cents per gallon taxes to be imposed on the effective date of this act pursuant to Article 8.1 of  
1574 Chapter 22 of Title 58.1 (§ 58.1-2288.1). In addition, the Commissioner shall periodically publish  
1575 the rates of taxes on fuels taxable under Chapter 22.

1576 4. That the tenth enactment clauses of Chapter 1019 and Chapter 1044 of the Acts of Assembly of  
1577 2000 are repealed.