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## HOUSE BILL NO. 5014

Offered May 25, 2006

A BILL to amend and reenact §§ 15.2-4832, 58.1-300, and 58.1-520 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 15.2-4838.1, 58.1-605.1, and 58.1-606.1, and by adding in Chapter 6 of Title 58.1 a section numbered 58.1-639.1, by adding in Chapter 17 of Title 58.1 an article numbered 4.1, consisting of sections numbered 58.1-1724.5 through 58.1-1724.11, by adding in Title 58.1 a chapter numbered 24.1, consisting of sections numbered 58.1-2427 through 58.1-2429, and by adding in Title 58.1 a chapter numbered 25.1, consisting of sections numbered 58.1-2531 through 58.1-2533, and to repeal Article 22 (§ 58.1-540 et seq.) of Chapter 3 of Title 58.1, relating to the administration and funding of transportation in Northern Virginia.

Patrons—Scott, J.M., Brink, Ebbin, Englin, Plum, Poisson, Sickles and Watts

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-4832, 58.1-300, and 58.1-520 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 15.2-4838.1, 58.1-605.1, and 58.1-606.1, and by adding in Chapter 6 of Title 58.1 a section numbered 58.1-639.1, by adding in Chapter 17 of Title 58.1 an article numbered 4.1, consisting of sections numbered 58.1-1724.5 through 58.1-1724.11, by adding in Title 58.1 a chapter numbered 24.1, consisting of sections numbered 58.1-2427 through 58.1-2429, and by adding in Title 58.1 a chapter numbered 25.1, consisting of sections numbered 58.1-2531 through 58.1-2533, as follows:

§ 15.2-4832. Composition of Authority; membership; terms.

The Authority shall consist of 46 20 members as follows:

The chief elected officer of the governing body of each county and city embraced by the Authority or, in the discretion of the chief elected officer, his designee, who shall be a current elected officer of such governing body;

~~Two~~Four members of the House of Delegates who reside in different counties or cities embraced by the Authority, appointed by the Speaker of the House, to the extent practicable, from the membership of the House Committee on Appropriations, the House Committee on Finance, or the House Committee on Transportation;

~~One member~~Two members of the Senate who ~~resides in a county or city~~ reside in different counties or cities embraced by the Authority, appointed by the Senate Committee on Rules, to the extent practicable, from the membership of the Senate Committee on Finance and the Senate Committee on Transportation; and

One mayor of a town with a population of at least 3,500 that is within any county embraced by the Authority, appointed by the Governor, with future appointees to this position rotated equally among all such towns; and

Two citizens who reside in counties and cities embraced by the Authority, appointed by the Governor. One gubernatorial appointment shall include a member of the Commonwealth Transportation Board who resides in a county or city embraced by the Authority. The remaining gubernatorial appointment shall be a person who has significant experience in transportation planning, finance, engineering, construction, or management and shall be a resident of a county or city embraced by the Authority, but shall not be a resident of the same county or city as the other gubernatorial appointee to the Authority.

Legislative members shall serve terms coincident with their terms of office. The gubernatorial appointee who is not a member of the Commonwealth Transportation Board shall serve for a term of four years. *The mayor of a town member shall serve for a term of two years.* Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments.

In addition, the following persons shall serve as nonvoting members of the Authority: the Director of the Virginia Department of Rail and Public Transportation, or his designee, and the Commonwealth Transportation Commissioner, or his designee.

The Authority shall appoint the chairman and vice-chairman.

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

All moneys received by the Authority pursuant to subsection C of § 58.1-605.1, subsection C of § 58.1-606.1, § 58.1-1724.8, § 58.1-2428, and § 58.1-2532 shall be used by the Authority solely for the primary benefit of those counties and cities that are imposing all of the taxes and fees set forth in such

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59 subsections and sections.

60 Notwithstanding any other provision of this chapter, all moneys received by the Authority pursuant to  
61 subsection C of § 58.1-605.1, subsection C of § 58.1-606.1, § 58.1-1724.8, § 58.1-2428, and § 58.1-2532  
62 shall be used as follows:

63 1. The first \$50 million received in each fiscal year shall be distributed to the Washington  
64 Metropolitan Area Transit Authority (WMATA) to provide funds to the Authority as may be required  
65 under federal law for the payment of certain federal funds to WMATA. The Authority shall make such  
66 annual distribution from such revenues (i) only to the extent required under federal law for the payment  
67 of federal funds to WMATA, and (ii) only if the Counties of Arlington and Fairfax and the City of  
68 Alexandria are imposing all of the taxes and the fees authorized pursuant to subsection C of  
69 § 58.1-605.1, subsection C of § 58.1-606.1, § 58.1-1724.8, § 58.1-2428, and § 58.1-2532 on and after  
70 March 1, 2007; and

71 2. All other remaining revenues received pursuant to subsection C of § 58.1-605.1, subsection C of  
72 § 58.1-606.1, § 58.1-1724.8, § 58.1-2428, and § 58.1-2532 shall be used by the Authority solely for  
73 transportation projects for the primary benefit of those counties and cities that are imposing all of the  
74 taxes and fees set forth in such subsections and sections as determined by the Authority subject to all  
75 conditions under this chapter.

76 § 58.1-300. Incomes not subject to local taxation.

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

80 § 58.1-520. Definitions.

81 As used in this article:

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

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

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

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

94 "Refund" means any individual's Virginia state or local income tax refund payable pursuant to §§  
95 58.1-309 and ~~58.1-546~~. This term also includes any refund belonging to a debtor resulting from the  
96 filing of a joint income tax return or a refund belonging to a debtor resulting from the filing of a return  
97 where husband and wife have elected to file a combined return and separately state their Virginia  
98 taxable incomes under the provisions of § 58.1-324 B 2.

99 § 58.1-605.1. Additional local sales tax.

100 A. In addition to any other taxes, fees, or other charges imposed under law, each of the governing  
101 bodies of the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria,  
102 Fairfax, Falls Church, Manassas, and Manassas Park may by ordinance levy a local retail sales tax at  
103 the rate of 0.5% to generate revenue for transportation, provided that the governing body of the county  
104 or city authorizes the Tax Commissioner to transfer the revenues collected from such tax to the  
105 Northern Virginia Transportation Authority established under § 15.2-4830. Such tax shall not be levied  
106 upon food purchased for human consumption as defined in § 58.1-611.1. Such tax shall be added to the  
107 rate of the local sales tax imposed pursuant to the authority granted under § 58.1-605 and shall be  
108 subject to all the provisions of this chapter and the rules and regulations published with respect thereto.  
109 No discount under § 58.1-622 shall be allowed for the tax described under this subsection. Such tax  
110 shall be administered and collected by the Tax Commissioner in the same manner and subject to the  
111 same penalties as provided for the state sales tax.

112 B. Any ordinance imposing the local retail sales tax authorized under this section shall be effective  
113 on the first day of the month that is at least 60 days subsequent to the adoption of the ordinance. A  
114 certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received  
115 within 10 days after its adoption.

116 C. The revenue generated and collected pursuant to the tax authorized under this section, less the  
117 applicable portion of any refunds to taxpayers, shall be deposited and held in a special trust fund under  
118 the control of the State Treasurer entitled "Special Sales and Use Tax Fund Account of the Northern  
119 Virginia Transportation Authority." The State Treasurer shall distribute the amounts deposited in the  
120 special trust fund monthly to the Northern Virginia Transportation Authority. The Authority shall use

such funds solely for the purposes as provided in § 15.2-4838.1.

D. No locality imposing the local retail sales tax pursuant to this section shall cease to impose such tax so long as the Northern Virginia Transportation Authority (i) is currently engaged in a transportation project within the boundaries of the locality, (ii) has entered into a binding commitment to begin a transportation project within the boundaries of the locality, or (iii) has issued bonds or incurred other evidence of debt that has not been satisfied or paid in full and that relates to a transportation project undertaken by the Authority within the boundaries of the locality.

§ 58.1-606.1. Additional local use tax.

A. In addition to any other taxes, fees, or other charges imposed under law, each of the governing bodies of the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park may by ordinance levy a local use tax at the rate of 0.5% to generate revenue for transportation, provided that the governing body of the county or city authorizes the Tax Commissioner to transfer the revenues collected from such tax to the Northern Virginia Transportation Authority established under § 15.2-4830. Such tax shall not be levied upon food purchased for human consumption as defined in § 58.1-611.1. Such tax shall be added to the rate of the local use tax imposed pursuant to the authority granted under § 58.1-606 and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax described under this subsection. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state use tax.

B. Any ordinance imposing the local use tax authorized under this section shall be effective on the first day of the month that is at least 60 days subsequent to the adoption of the ordinance. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within 10 days after its adoption.

C. The revenue generated and collected pursuant to the tax authorized under this section, less the applicable portion of any refunds to taxpayers, shall be deposited and held in a special trust fund under the control of the State Treasurer entitled "Special Sales and Use Tax Fund Account of the Northern Virginia Transportation Authority." The State Treasurer shall distribute the amounts deposited in the special trust fund monthly to the Northern Virginia Transportation Authority. The Authority shall use such funds solely for the purposes as provided in § 15.2-4838.1.

D. No locality imposing the local use tax pursuant to this section shall cease to impose such tax so long as the Northern Virginia Transportation Authority (i) is currently engaged in a transportation project within the boundaries of the locality, (ii) has entered into a binding commitment to begin a transportation project within the boundaries of the locality, or (iii) has issued bonds or incurred other evidence of debt that has not been satisfied or paid in full and that relates to a transportation project undertaken by the Authority within the boundaries of the locality.

§ 58.1-639.1. Exemptions for local sales and use tax.

Any exemption set forth in this chapter, or established pursuant to the administrative process under § 58.1-609.11, for a state sales or use tax or a local sales or use tax under § 58.1-605 or 58.1-606 shall also apply to the taxes imposed pursuant to §§ 58.1-605.1 and 58.1-606.1.

Article 4.1.

Local Motor Vehicle Fuel Sales Tax Authorized in Certain Localities.

§ 58.1-1724.5. Sales tax on fuel authorized in certain localities.

A. In addition to all other taxes and fees authorized by law, the Counties of Arlington, Fairfax, Loudoun, and Prince William, and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park, are authorized to impose by ordinance a sales tax on fuels subject to tax under Chapter 22 (§ 58.1-2200 et seq.) of this title at the rate of 2% of the retail price of such fuels sold within such county or city, provided that the governing body of the county or city authorizes the Tax Commissioner and the state treasurer to transfer the revenues collected from such tax to the Northern Virginia Transportation Authority established under § 15.2-4830. As used in this section "retail sale" means a sale to a consumer or to any person for any purpose other than resale.

B. Any ordinance imposing the local retail sales tax authorized under this section shall be effective on the first day of the month that is at least 60 days subsequent to the adoption of the ordinance. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within 10 days after its adoption.

C. The tax imposed under this section shall be subject to the provisions of the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.), except that the exemption provided for motor vehicle fuels under § 58.1-609.13, and the bracket system provided in such act, shall not be applicable.

§ 58.1-1724.6. Exclusion from professional license tax.

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

182 *this title.*

183 *§ 58.1-1724.7. Refund of motor vehicle fuel sales tax.*

184 *Anyone who purchases fuel (i) that is taxed under the provisions of § 58.1-1724.5 and (ii) upon*  
185 *which a refund is granted for motor fuels taxes paid pursuant to the provisions of Chapter 22*  
186 *(§ 58.1-2200 et seq.) may file a claim for a refund of taxes paid under this article within 30 days after*  
187 *receipt of a refund under the above chapter on forms and under regulations adopted by the Department*  
188 *of Taxation.*

189 *§ 58.1-1724.8. Disposition of tax revenues.*

190 *The revenue generated and collected pursuant to the tax authorized under this section, less the*  
191 *applicable portion of any refunds to taxpayers, shall be deposited and held in a special trust fund under*  
192 *the control of the State Treasurer entitled "Special Motor Fuels Tax Fund Account of the Northern*  
193 *Virginia Transportation Authority." The State Treasurer shall distribute the amounts deposited in the*  
194 *special trust fund monthly to the Northern Virginia Transportation Authority. The Authority shall use*  
195 *such funds solely for the purposes as provided in § 15.2-4838.1.*

196 *§ 58.1-1724.9. Rules and regulations; bracket system.*

197 *The Tax Commissioner shall promulgate rules and regulations for the registration of dealers and the*  
198 *procedures for filing returns for the payment of the tax imposed pursuant to this article. Such*  
199 *regulations shall include provisions for a bracket system, designed so that the tax will appear on the*  
200 *fuel pump as a part of the total cost of a unit of fuel, whether the unit is a gallon or other measure.*  
201 *The bracket system shall state the tax per unit measure in tenths of a cent, and shall be in increments of*  
202 *no more than two and one-half cents. Such bracket system shall be established in coordination with the*  
203 *tax under Article 4 (§ 58.1-1719 et seq.) of this chapter.*

204 *§ 58.1-1724.10. Disclosure of information; penalties.*

205 *For purposes of administering the tax levied under this article, the Commissioner, upon written*  
206 *request, is authorized to provide to the finance officer of any city or county who is charged with*  
207 *administering the motor vehicle fuel sales tax, such information as may be necessary for the*  
208 *performance of official duties. Any person to whom information is provided pursuant to this section*  
209 *shall be subject to the prohibitions and penalties prescribed in § 58.1-3.*

210 *§ 58.1-1724.11. Maintenance of tax.*

211 *No locality imposing the local fuels tax pursuant to this article shall cease to impose such tax so*  
212 *long as the Northern Virginia Transportation Authority (i) is currently engaged in a transportation*  
213 *project within the boundaries of the locality, (ii) has entered into a binding commitment to begin a*  
214 *transportation project within the boundaries of the locality, or (iii) has issued bonds or incurred other*  
215 *evidence of debt that has not been satisfied or paid in full and that relates to a transportation project*  
216 *undertaken by the Authority within the boundaries of the locality.*

#### 217 *CHAPTER 24.1*

#### 218 *Local Motor Vehicle Sales and Use Tax.*

219 *§ 58.1-2427. Motor vehicle sales and use tax authorized in certain localities.*

220 *A. In addition to all other taxes and fees authorized by law, the Counties of Arlington, Fairfax,*  
221 *Loudoun, and Prince William, and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and*  
222 *Manassas Park, are authorized to impose by ordinance a sales and use tax on all motor vehicles subject*  
223 *to tax under Chapter 24 (§ 58.1-2400 et seq.) of this title, at the rate of 1.5%, provided that the*  
224 *governing body of the county or city authorizes the Commissioner of the Division of Motor Vehicles and*  
225 *the state treasurer to transfer the revenues collected from such tax to the Northern Virginia*  
226 *Transportation Authority established under § 15.2-4830.*

227 *B. Any ordinance imposing the tax authorized under this section shall be effective on the first day of*  
228 *the month that is at least 60 days subsequent to the adoption of the ordinance. A certified copy of such*  
229 *ordinance shall be forwarded to the Commissioner of the Division of Motor Vehicles so that it will be*  
230 *received within 10 days after its adoption.*

231 *C. The tax imposed under this section shall be assessed in the same manner, subject to the same*  
232 *exemptions, and collected by the Commissioner of the Division of Motor Vehicles at the same time as*  
233 *the taxes under Chapter 24 (§ 58.1-2400 et seq.) of this title. All of the provisions in Chapter 24*  
234 *(§ 58.1-2400 et seq.) of this title, except as provided otherwise in this chapter, shall apply to this*  
235 *chapter, mutatis mutandis.*

236 *§ 58.1-2428. Disposition of tax revenues.*

237 *The revenue generated and collected pursuant to the tax authorized under this chapter, shall be*  
238 *deposited and held in a special trust fund under the control of the State Treasurer entitled "Special*  
239 *Motor Vehicle Sales and Use Tax Fund Account of the Northern Virginia Transportation Authority." The*  
240 *State Treasurer shall distribute the amounts deposited in the special trust fund monthly to the Northern*  
241 *Virginia Transportation Authority. The Authority shall use such funds solely for the purposes as*  
242 *provided in § 15.2-4838.1.*

243 *§ 58.1-2429. Maintenance of tax.*

No locality imposing the tax pursuant to this chapter shall cease to impose such tax so long as the Northern Virginia Transportation Authority (i) is currently engaged in a transportation project within the boundaries of the locality, (ii) has entered into a binding commitment to begin a transportation project within the boundaries of the locality, or (iii) has issued bonds or incurred other evidence of debt that has not been satisfied or paid in full and that relates to a transportation project undertaken by the Authority within the boundaries of the locality.

#### CHAPTER 25.1.

##### Local License Tax on Certain Insurance Companies Authorized in Certain Localities.

§ 58.1-2531. Local license tax on certain insurance companies authorized in certain localities.

A. In addition to all other taxes and fees authorized by law, the Counties of Arlington, Fairfax, Loudoun, and Prince William, and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park, are authorized to impose by ordinance on every insurance company defined in § 38.2-100 which issues policies or contracts for motor vehicle insurance as defined in § 38.2-124 on motor vehicles registered in such county or city, a tax at the rate of 2.25% of the gross premium income to the insurance company on such insurance. The authority to impose the tax under this chapter is contingent upon the governing body of the county or city authorizing the State Corporation Commission and the state treasurer to transfer the revenues collected from such tax to the Northern Virginia Transportation Authority established under § 15.2-4830.

B. Any ordinance imposing the tax authorized under this section shall be effective on the first day of the month that is at least 60 days subsequent to the adoption of the ordinance. A certified copy of such ordinance shall be forwarded to the State Corporation Commission so that it will be received within 10 days after its adoption.

C. The tax imposed under this section shall be assessed in the same manner, subject to the same exemptions, and collected by the State Corporation Commission at the same time as the taxes under Chapter 25 (§ 58.1-2500 et seq.) of this title. All of the provisions in Chapter 25 (§ 58.1-2500 et seq.) of this title, except as provided otherwise in this chapter, shall apply to this chapter, *mutatis mutandis*.

§ 58.1-2532. Disposition of tax revenues.

The revenue generated and collected pursuant to the tax authorized under this chapter shall be deposited and held in a special trust fund under the control of the State Treasurer entitled "Special Insurance Premiums Tax Fund Account of the Northern Virginia Transportation Authority." The State Treasurer shall distribute the amounts deposited in the special trust fund monthly to the Northern Virginia Transportation Authority. The Authority shall use such funds solely for the purposes as provided in § 15.2-4838.1.

§ 58.1-2533. Maintenance of tax.

No locality imposing the tax pursuant to this chapter shall cease to impose such tax so long as the Northern Virginia Transportation Authority (i) is currently engaged in a transportation project within the boundaries of the locality, (ii) has entered into a binding commitment to begin a transportation project within the boundaries of the locality, or (iii) has issued bonds or incurred other evidence of debt that has not been satisfied or paid in full and that relates to a transportation project undertaken by the Authority within the boundaries of the locality.

**2. That Article 22 (§ 58.1-540 et seq.) of Chapter 3 of Title 58.1 of the Code of Virginia is repealed.**

**3. That each county or city that imposes taxes or fees pursuant to subsection C of § 58.1-605.1, subsection C of § 58.1-606.1, § 58.1-1724.8, 58.1-2428, or 58.1-2532 of the Code of Virginia shall for each fiscal year in which it imposes such taxes or fees expend or disburse for transportation purposes an amount (computed without regard to any revenues generated in the fiscal year from such taxes or fees) that is at least equal to the total amount expended or disbursed for transportation purposes by the county or city in its fiscal year that began in calendar year 2005.**

**4. That any revenues distributed to the Northern Virginia Transportation Authority pursuant to subsection C of § 58.1-605.1, subsection C of § 58.1-606.1, § 58.1-1724.8, 58.1-2428, or 58.1-2532 of the Code of Virginia, shall not be used to calculate or reduce the share of local, federal, and state revenues otherwise available to any county or city set forth in subsection A of § 58.1-605.1 or subsection A of § 58.1-606.1 of the Code of Virginia or otherwise available to the Northern Virginia Transportation District. Further, such revenues and moneys shall not be included in any computation of, or formula for, a locality's ability to pay for public education, upon which appropriations of state revenues to local governments for public education are determined.**