

2006 SPECIAL SESSION I

INTRODUCED

069278816

SENATE BILL NO. 5008

Offered April 12, 2006

A *BILL to amend and reenact §§ 58.1-603, 58.1-604, 58.1-604.1, 58.1-614, 58.1-638, 58.1-639, 58.1-802, 58.1-811, 58.1-812, 58.1-813, 58.1-815, 58.1-815.1, and 58.1-816.1 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 15.2-4838.1, 15.2-4838.2, and 58.1-802.1, relating to the funding of transportation in Northern Virginia; revenue.*

Patrons—Saslaw, Colgan, Howell, Puller, Ticer and Whipple

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-603, 58.1-604, 58.1-604.1, 58.1-614, 58.1-638, 58.1-639, 58.1-802, 58.1-811, 58.1-812, 58.1-813, 58.1-815, 58.1-815.1, and 58.1-816.1 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, 15.2-4838.2, and 58.1-802.1 as follows:

§ 15.2-4838.1. *Special Transportation Fund for Northern Virginia established.*

There is hereby created in the state treasury a special nonreverting fund to be known as the Special Transportation Fund for Northern Virginia, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All revenues dedicated for the Fund pursuant to subsection G of § 58.1-638, subsection C of § 58.1-802, and as may be appropriated by the General Assembly shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

Moneys in the Fund shall be used by the Authority solely for the purposes stated in this chapter. 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 Authority or his designee.

§ 15.2-4838.2. *Use of certain revenues by the Authority.*

Notwithstanding any other provision of this chapter, each dollar of revenue deposited into the Special Transportation Fund for Northern Virginia pursuant to subsection C of § 58.1-802 and distributed to the Authority pursuant to § 58.1-802.1 shall be expended or used solely for transportation facilities in the county or city from which such revenue is generated.

§ 58.1-603. Imposition of sales tax.

A. There is hereby levied and imposed, in addition to all other taxes and fees of every kind now imposed by law, a license or privilege tax upon every person who engages in the business of selling at retail or distributing tangible personal property in this Commonwealth, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this Commonwealth any item or article of tangible personal property as defined in this chapter, or who leases or rents such property within this Commonwealth, in the amount of, *except as provided in subsection B*, three and one-half percent through midnight on July 31, 2004, and four percent beginning on and after August 1, 2004:

1. Of the gross sales price of each item or article of tangible personal property when sold at retail or distributed in this Commonwealth.

2. Of the gross proceeds derived from the lease or rental of tangible personal property, where the lease or rental of such property is an established business, or part of an established business, or the same is incidental or germane to such business.

3. Of the cost price of each item or article of tangible personal property stored in this Commonwealth for use or consumption in this Commonwealth.

4. Of the gross proceeds derived from the sale or charges for rooms, lodgings or accommodations furnished to transients as set out in the definition of "retail sale" in § 58.1-602.

5. Of the gross sales of any services which are expressly stated as taxable within this chapter.

B. *The tax imposed pursuant to subsection A shall be imposed at a rate of 4.50% in the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. All revenues collected from the 0.50% additional tax in such counties and cities shall be distributed and used as set forth in subsection G of § 58.1-638.*

§ 58.1-604. Imposition of use tax.

A. There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount

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59 of, *except as provided in subsection B*, three and one-half percent through midnight on July 31, 2004,
60 and four percent beginning on and after August 1, 2004:

61 1. Of the cost price of each item or article of tangible personal property used or consumed in this
62 Commonwealth. Tangible personal property which has been acquired for use outside this Commonwealth
63 and subsequently becomes subject to the tax imposed hereunder shall be taxed on the basis of its cost
64 price if such property is brought within this Commonwealth for use within six months of its acquisition;
65 but if so brought within this Commonwealth six months or more after its acquisition, such property shall
66 be taxed on the basis of the current market value (but not in excess of its cost price) of such property at
67 the time of its first use within this Commonwealth. Such tax shall be based on such proportion of the
68 cost price or current market value as the duration of time of use within this Commonwealth bears to the
69 total useful life of such property (but it shall be presumed in all cases that such property will remain
70 within this Commonwealth for the remainder of its useful life unless convincing evidence is provided to
71 the contrary).

72 2. Of the cost price of each item or article of tangible personal property stored outside this
73 Commonwealth for use or consumption in this Commonwealth.

74 3. A transaction taxed under § 58.1-603 shall not also be taxed under this section, nor shall the same
75 transaction be taxed more than once under either section.

76 4. The use tax shall not apply with respect to the use of any article of tangible personal property
77 brought into this Commonwealth by a nonresident individual, visiting in Virginia, for his personal use,
78 while within this Commonwealth.

79 5. The use tax shall not apply to out-of-state mail order catalog purchases totaling \$100 or less
80 during any calendar year.

81 *B. The tax imposed pursuant to subsection A shall be imposed at a rate of 4.50% in the Counties of*
82 *Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church,*
83 *Manassas, and Manassas Park. All revenues collected from the 0.50% additional tax in such counties*
84 *and cities shall be distributed and used as set forth in subsection G of § 58.1-638.*

85 § 58.1-604.1. Use tax on motor vehicles, machinery, tools and equipment brought into Virginia for
86 use in performing contracts.

87 In addition to the use tax levied pursuant to § 58.1-604 and notwithstanding the provisions of
88 § 58.1-611, a use tax is levied upon the storage or use of all motor vehicles, machines, machinery, tools
89 or other equipment brought, imported or caused to be brought into this Commonwealth for use in
90 constructing, building or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or
91 water system, drainage or dredging system, railway system, reservoir or dam, hydraulic or power plant,
92 transmission line, tower, dock, wharf, excavation, grading, or other improvement or structure, or any
93 part thereof. ~~The~~ *Except as provided herein, the* rate of tax is three and one-half percent through
94 midnight on July 31, 2004, and four percent beginning on and after August 1, 2004, on all tangible
95 personal property except motor vehicles, which shall be taxed at the rate of three percent; aircraft, which
96 shall be taxed at the rate of two percent; and watercraft, which shall be taxed at the rate of two percent
97 with a maximum tax of \$1,000.

98 *However, in the counties and cities set forth in subsection B of § 58.1-603 and subsection B of*
99 *§ 58.1-604, the rate of tax on such tangible personal property (except motor vehicles, aircraft, and*
100 *watercraft) shall be 4.50%. The revenues collected from the 0.50% additional tax in such counties and*
101 *cities on such tangible personal property shall be distributed and used as set forth in subsection G of*
102 *§ 58.1-638. The rate of tax in such counties and cities on such motor vehicles shall be 3.0%; the rate of*
103 *tax on such aircraft shall be 2.0%; and the rate of tax on such watercraft shall be 2.0% with a*
104 *maximum tax of \$1,000.*

105 For purposes of this section the words "motor vehicle" means any vehicle which is self-propelled and
106 designed primarily for use upon the highways, any vehicle which is propelled by electric power obtained
107 from trolley wires but not operated upon rails, and any vehicle designed to run upon the highways
108 which is pulled by a self-propelled vehicle, but shall not include any implement of husbandry, farm
109 tractor, road construction or maintenance machinery or equipment, special mobile equipment or any
110 vehicle designed primarily for use in work off the highway.

111 The tax shall be computed on the basis of such proportion of the original purchase price of such
112 property as the duration of time of use in this Commonwealth bears to the total useful life thereof. For
113 purposes of this section, the word "use" means use, storage, consumption and "stand-by" time
114 occasioned by weather conditions, controversies or other causes. The tax shall be computed upon the
115 basis of the relative time each item of equipment is in this Commonwealth rather than upon the basis of
116 actual use. In the absence of satisfactory evidence as to the period of use intended in this
117 Commonwealth, it will be presumed that such property will remain in this Commonwealth for the
118 remainder of its useful life, which shall be determined in accordance with the experiences and practices
119 of the building and construction trades.

120 A transaction taxed under §§ 58.1-604, 58.1-605, 58.1-1402, 58.1-1502, or § 58.1-2402 shall not also

be taxed under this section, nor shall the same transaction be taxed more than once under any section.

§ 58.1-614. Vending machine sales.

A. Notwithstanding the provisions of §§ 58.1-603 and 58.1-604, whenever a dealer makes sales of tangible personal property through vending machines, or in any other manner making collection of the tax impractical, as determined by the Tax Commissioner, such dealer shall be required to report his wholesale purchases for sale at retail from vending machines and shall be required to remit an amount based on four and one-half percent through midnight on July 31, 2004, and five percent beginning on and after August 1, 2004, of such wholesale purchases, *except that such wholesale purchases shall be taxed at a rate of 5.50% in the counties and cities set forth in subsection B of § 58.1-603 and subsection B of § 58.1-604. The revenues collected from the 0.50% additional tax in such counties and cities on wholesale purchases shall be distributed and used as set forth in subsection G of § 58.1-638.*

B. Notwithstanding the provisions of §§ 58.1-605 and 58.1-606, dealers making sales of tangible personal property through vending machines shall report and remit the one percent local sales and use tax computed as provided in subsection A of this section.

C. The provisions of subsections A and B of this section shall not be applicable to vending machine operators all of whose machines are under contract to nonprofit organizations. Such operators shall report only the gross receipts from machines selling items for more than 10 cents and shall be required to remit an amount based on a percentage of their remaining gross sales established by the Tax Commissioner to take into account the inclusion of sales tax.

D. Notwithstanding any other provisions in this section, when the Tax Commissioner determines that it is impractical to collect the tax in the manner provided by those sections, such dealer shall be required to remit an amount based on a percentage of gross receipts which takes into account the inclusion of the sales tax.

E. The provisions of this section shall not be applicable to any dealer who fails to maintain records satisfactory to the Tax Commissioner. A dealer making sales of tangible personal property through vending machines shall obtain a certificate of registration under § 58.1-613 in relevant form for each county or city in which he has machines.

§ 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. *The gross revenues generated and collected from the additional 0.50% state sales and use tax imposed in the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park (as provided in subsection B of § 58.1-603, subsection B of § 58.1-604, § 58.1-604.1, and § 58.1-614) less the applicable portion of any refunds to taxpayers, shall be deposited into the Special Transportation Fund for Northern Virginia established under § 15.2-4838.1. The Tax Commissioner shall provide a monthly certification to the Comptroller reporting such net 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 as reported in the Tax Commissioner's certification 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.

§ 58.1-639. Transitional provisions.

A. To the extent of the one-half percent increase in the state sales and use tax rate effective August 1, 2004, in certain counties and cities of the Commonwealth enacted by the 2004 Special Session I of the Virginia a Session of the General Assembly held in 2006, the Tax Commissioner, upon application of the purchaser in accordance with regulations promulgated by the Commissioner, shall have the authority to refund state sales or use taxes paid on purchases of tangible personal property made pursuant to bona fide real estate construction contracts, contracts for the sale of tangible personal property, and leases, provided that the real estate construction contract, contract for the sale of tangible personal property or lease is entered into prior to the date of enactment of such increase in the state sales and use tax rate; and further provided that the date of delivery of the tangible personal property is on or before October 31, 2004 2006. The term "bona fide contract," when used in this section in relation to real estate construction contracts, shall include but not be limited to those contracts which are entered

into prior to the enactment of such increase in the state sales and use tax rate, provided that such contracts include plans and specifications.

B. Notwithstanding the foregoing October 31, 2004 2006, delivery date requirement, with respect to bona fide real estate construction contracts which contain a specific and stated date of completion, the date of delivery of such tangible personal property shall be on or before the completion date of the applicable project.

C. Applications for refunds pursuant to this section shall be made in accordance with the provisions of § 58.1-1823. Interest computed in accordance with § 58.1-1833 shall be added to the tax refunded pursuant to this section.

§ 58.1-802. Additional tax paid by grantor; collection.

A. In addition to any other tax imposed under the provisions of this chapter, a tax is hereby imposed on each deed, instrument, or writing by which lands, tenements or other realty sold is granted, assigned, transferred, or otherwise conveyed to, or vested in the purchaser, or any other person, by such purchaser's direction. ~~The~~ Except as provided in subsection C, the rate of the tax, when the consideration or value of the interest exceeds \$100, shall be 50 10 cents for each \$500 \$100 or fraction thereof, exclusive of the value of any lien or encumbrance remaining thereon at the time of the sale, whether such lien is assumed or the realty is sold subject to such lien or encumbrance. ~~No increase in the city or county recordation tax authorized by § 58.1-814 shall be deemed authorized by this section.~~

The tax imposed by this section shall be paid by the grantor, or any person who signs on behalf of the grantor, of any deed, instrument or writing subject to the tax imposed by this section.

No such deed, instrument or other writing shall be admitted to record without certification of the clerk of the court wherein first recorded having been affixed thereto that the tax imposed by this section has been paid. The clerk shall include within the certificate the amount of such tax collected thereon.

B. Taxes imposed by this section shall be collected as provided in § 58.1-812 and the clerk shall return taxes collected hereunder, *except as provided in subsection C*, one-half into the state treasury and one-half into the treasury of the locality.

The local portion of the tax imposed by this section on property which is located in more than one jurisdiction shall be collected by the clerk in proportion to the value of the property located in each such locality when recorded therein.

Every clerk of court collecting taxes under this section for the county or city which he serves shall be entitled to compensation for such service at five percent of the amount so collected and paid, *with such compensation based on a rate of 10 cents for each \$100 of value as determined pursuant to subsection A.*

C. *The rate of the tax imposed pursuant to this section, when the consideration or value of the interest exceeds \$100, shall be 30 cents for each \$100 or fraction thereof for such realty that is located in the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park, exclusive of the value of any lien or encumbrance remaining thereon at the time of the sale, whether such lien is assumed or the realty is sold subject to such lien or encumbrance.*

The clerk shall return taxes collected hereunder for realty that is located in the counties and cities set forth in this subsection as follows: (i) taxes collected at the rate of 20 cents for each \$100 or fraction thereof as determined pursuant to subsection A shall be returned by the clerk to the state treasury, and such revenues shall be deposited by the Comptroller into the Special Transportation Fund for Northern Virginia established under § 15.2-4838.1 as soon as practical; (ii) taxes collected at the rate of 5 cents for each \$100 or fraction thereof shall be returned by the clerk to the state treasury, and such revenues shall be deposited by the Comptroller into the general fund of the state treasury; and (iii) taxes collected at the rate of 5 cents for each \$100 or fraction thereof shall be returned into the treasury of such county or city in which the realty is located. For such deposits into the Special Transportation Fund for Northern Virginia, the Comptroller shall establish subfunds for each such county and city and shall deposit such revenues generated by virtue of realty located in such counties and cities into the respective subfund.

D. *No increase in the city or county recordation tax authorized by § 58.1-814 shall be deemed authorized by this section.*

§ 58.1-802.1. Additional local tax paid by grantor; collection.

A. In addition to the tax imposed by § 58.1-802 and any other fee, tax, or other charge 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, impose a tax on each deed, instrument, or writing by which lands, tenements or other realty sold (located in the county or city) is granted, assigned, transferred, or otherwise conveyed to, or vested in the purchaser, or any other person, by such purchaser's direction. The rate of the tax, when the consideration or value of the interest exceeds \$100, shall be 10 cents for each \$100 or fraction thereof,

428 *exclusive of the value of any lien or encumbrance remaining thereon at the time of the sale, whether*
429 *such lien is assumed or the realty is sold subject to such lien or encumbrance. All revenues collected*
430 *from such tax shall be distributed to the Northern Virginia Transportation Authority created under*
431 *Chapter 48.2 (§ 15.2-4829 et seq.) of Title 15.2 as provided in subsection B.*

432 *The tax imposed pursuant to the authority granted under this section shall be paid by the grantor (or*
433 *any person who signs on behalf of the grantor) of any deed, instrument or writing that is subject to the*
434 *tax imposed pursuant to this section.*

435 *In any county or city in which such tax is imposed, no such deed, instrument or other writing shall*
436 *be admitted to record without certification of the clerk of the court wherein first recorded having been*
437 *affixed thereto that such tax has been paid. The clerk shall include within the certificate the amount of*
438 *such tax collected thereon.*

439 *B. The tax shall be collected pursuant to subsection B of § 58.1-802. The clerk shall return all taxes*
440 *collected hereunder to the Northern Virginia Transportation Authority to be used as provided in*
441 *§ 15.2-4838.2.*

442 *The tax imposed pursuant to the authority granted under this section on property which is located in*
443 *more than one jurisdiction shall be collected by the clerk in proportion to the value of the property*
444 *located in each such locality when recorded therein.*

445 *C. Except as otherwise provided in this section or this chapter, the tax imposed pursuant to the*
446 *authority granted under this section shall be administered, enforced, and collected in the same manner*
447 *as set forth in Subtitle III of Title 58.1 for the administration, enforcement, and collection of local taxes.*
448 *§ 58.1-811. Exemptions.*

449 *A. The taxes imposed by §§ 58.1-801 and 58.1-807 shall not apply to any deed conveying real estate*
450 *or lease of real estate:*

451 *1. To an incorporated college or other incorporated institution of learning not conducted for profit,*
452 *where such real estate is intended to be used for educational purposes and not as a source of revenue or*
453 *profit;*

454 *2. To an incorporated church or religious body or to the trustee or trustees of any church or religious*
455 *body, or a corporation mentioned in § 57-16.1, where such real estate is intended to be used exclusively*
456 *for religious purposes, or for the residence of the minister of any such church or religious body;*

457 *3. To the United States, the Commonwealth, or to any county, city, town, district or other political*
458 *subdivision of the Commonwealth;*

459 *4. To the Virginia Division of the United Daughters of the Confederacy;*

460 *5. To any nonstock corporation organized exclusively for the purpose of owning or operating a*
461 *hospital or hospitals not for pecuniary profit;*

462 *6. To a corporation upon its organization by persons in control of the corporation in a transaction*
463 *which qualifies for nonrecognition of gain or loss pursuant to § 351 of the Internal Revenue Code as it*
464 *exists at the time of the conveyance;*

465 *7. From a corporation to its stockholders upon complete or partial liquidation of the corporation in a*
466 *transaction which qualifies for income tax treatment pursuant to § 331, 332, 333 or 337 of the Internal*
467 *Revenue Code as it exists at the time of liquidation;*

468 *8. To the surviving or new corporation, partnership or limited liability company upon merger or*
469 *consolidation of two or more corporations, partnerships or limited liability companies, or in a*
470 *reorganization within the meaning of § 368 (a) (1) (C) and (F) of the Internal Revenue Code as*
471 *amended;*

472 *9. To a subsidiary corporation from its parent corporation, or from a subsidiary corporation to a*
473 *parent corporation, if the transaction qualifies for nonrecognition of gain or loss under the Internal*
474 *Revenue Code as amended;*

475 *10. To a partnership or limited liability company, when the grantors are entitled to receive not less*
476 *than 50 percent of the profits and surplus of such partnership or limited liability company; provided that*
477 *the transfer to a limited liability company is not a precursor to a transfer of control of the assets of the*
478 *company to avoid recordation taxes;*

479 *11. From a partnership or limited liability company, when the grantees are entitled to receive not less*
480 *than 50 percent of the profits and surplus of such partnership or limited liability company; provided that*
481 *the transfer from a limited liability company is not subsequent to a transfer of control of the assets of*
482 *the company to avoid recordation taxes;*

483 *12. To trustees of a revocable inter vivos trust, when the grantors in the deed and the beneficiaries of*
484 *the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust*
485 *instrument, when no consideration has passed between the grantor and the beneficiaries; and to the*
486 *original beneficiaries of a trust from the trustees holding title under a deed in trust;*

487 *13. When the grantor is the personal representative of a decedent's estate or trustee under a will or*
488 *inter vivos trust of which the decedent was the settlor, other than a security trust defined in § 55-58.1,*
489 *and the sole purpose of such transfer is to comply with a devise or bequest in the decedent's will or to*

transfer title to one or more beneficiaries after the death of the settlor in accordance with a dispositive provision in the trust instrument; or

14. When the grantor is an organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise would be unable to afford to buy a home through conventional means, located in a county with a population of not less than 28,500 and not more than 28,650 or a city with a population of not less than 66,000 and not more than 70,000.

B. The taxes imposed by §§ 58.1-803 and 58.1-804 shall not apply to any deed of trust or mortgage:

1. Given by an incorporated college or other incorporated institution of learning not conducted for profit;

2. Given by the trustee or trustees of a church or religious body or given by an incorporated church or religious body, or given by a corporation mentioned in § 57-16.1;

3. Given by any nonstock corporation organized exclusively for the purpose of owning and/or operating a hospital or hospitals not for pecuniary profit;

4. Given by any local governmental entity or political subdivision of the Commonwealth to secure a debt payable to any other local governmental entity or political subdivision; or

5. Securing a loan made by an organization described in subdivision 14 of subsection A of this section.

C. The ~~tax~~ taxes imposed by §§ 58.1-802 and 58.1-802.1 shall not apply to any:

1. Transaction described in subdivisions 6 through 13 of subsection A of this section;

2. Instrument or writing given to secure a debt;

3. Deed conveying real estate from an incorporated college or other incorporated institution of learning not conducted for profit;

4. Deed conveying real estate from the United States, the Commonwealth or any county, city, town, district or other political subdivision thereof;

5. Conveyance of real estate to the Commonwealth or any county, city, town, district or other political subdivision thereof, if such political unit is required by law to reimburse the parties taxable pursuant to § 58.1-802 or 58.1-802.1; or

6. Deed conveying real estate from the trustee or trustees of a church or religious body or from an incorporated church or religious body, or from a corporation mentioned in § 57-16.1.

D. No recordation tax shall be required for the recordation of any deed of gift between a grantor or grantors and a grantee or grantees when no consideration has passed between the parties. Such deed shall state therein that it is a deed of gift.

E. The tax imposed by § 58.1-807 shall not apply to any lease to the United States, the Commonwealth, or any county, city, town, district or other political subdivision of the Commonwealth.

F. The taxes imposed by §§ 58.1-801, 58.1-802, 58.1-802.1, 58.1-807, 58.1-808 and 58.1-814 shall not apply to (i) any deed of gift conveying real estate or any interest therein to The Nature Conservancy or (ii) any lease of real property or any interest therein to The Nature Conservancy, where such deed of gift or lease of real estate is intended to be used exclusively for the purpose of preserving wilderness, natural or open space areas.

G. The words "trustee" or "trustees," as used in subdivision 2 of subsection A, subdivision 2 of subsection B, and subdivision 6 of subsection C, include the trustees mentioned in § 57-8 and the ecclesiastical officers mentioned in § 57-16.

H. No recordation tax levied pursuant to this chapter shall be levied on the release of a contractual right, if the release is contained within a single deed that performs more than one function, and at least one of the other functions performed by the deed is subject to the recordation tax.

§ 58.1-812. Payment prerequisite to recordation; exceptions; assessment and collection of tax; penalty for misrepresentation.

A. Except as otherwise provided in this chapter, no deed, deed of trust, contract or other instrument shall be admitted to record without the payment of the tax imposed thereon by law and the fee pursuant to § 58.1-817, as applicable. However, after payment of the tax imposed by this chapter, *and any tax imposed pursuant to the authority granted under § 58.1-802.1*, when an instrument is first offered for recordation, such instrument may thereafter be recorded in the office of any other clerk without the payment of any tax except any local recordation tax as provided in Article 1 (§ 58.1-3800 et seq.) of Chapter 38 of this title. Any instrument may also be recorded free of tax and fee in the office of the clerk where such instrument was originally recorded when the record containing such instrument has been destroyed.

B. The tax on every deed, deed of trust, contract or other instrument shall be determined and collected by the clerk in whose office the instrument is first offered for recordation. The clerk may ascertain the consideration of the deed or of the instrument, the actual value of the property conveyed,

551 and the qualification of the deed or instrument for any exemption claimed by inquiry, affidavit,
552 declaration or other extrinsic evidence acceptable to the clerk. The fee shall be \$1 on every recorded
553 deed pursuant to § 58.1-817 and shall be collected by the clerk in whose office the deed is offered for
554 recordation.

555 C. Any person who knowingly misrepresents any of the information requested by the clerk of court
556 pursuant to this section shall be guilty of a Class 2 misdemeanor.

557 § 58.1-813. Collection of tax by Department.

558 The Department may assess and collect any tax imposed by this chapter *or imposed pursuant to the*
559 *authority granted under § 58.1-802.1*, which has remained uncollected for thirty days. The Department,
560 prior to collecting such tax, shall give notice to the clerk of court in whose office the tax was to be
561 collected. The Department may then proceed to assess and collect the unpaid tax in the same manner
562 and by the same methods used for the collection of any state tax administered by the Department.

563 Any local tax collected hereunder in conjunction with the collection of a state tax by the Department
564 shall be deposited into the state treasury. The Comptroller shall, by warrant drawn on the Treasurer of
565 Virginia, remit to the proper city or county any amounts due to such city or county.

566 § 58.1-815. U.S. Route 58 Corridor Development Fund.

567 There is hereby created in the Department of the Treasury a special nonreverting fund which shall be
568 a part of the Transportation Trust Fund and which shall be known as the U.S. Route 58 Corridor
569 Development Fund, consisting of the first \$40 million of annual collections of the state recordation taxes
570 imposed by this chapter; provided, however, this dedication shall not affect the local recordation taxes
571 under ~~§§ 58.1-802 B subsections B and C of § 58.1-802~~ and § 58.1-814. The Fund shall also include
572 such other funds as may be appropriated by the General Assembly from time to time, and designated for
573 this Fund and all interest, dividends and appreciation which may accrue thereto. Any moneys remaining
574 in the Fund at the end of a biennium shall not revert to the General Fund, but shall remain in the Fund.
575 Allocations from this Fund may be paid to any authority, locality or commission for the purposes
576 specified in § 33.1-221.1:2.

577 § 58.1-815.1. Northern Virginia Transportation District Fund.

578 A. There is hereby created in the Department of the Treasury a special nonreverting fund which shall
579 be a part of the Transportation Trust Fund and which shall be known as the Northern Virginia
580 Transportation District Fund, consisting of transfers pursuant to § 58.1-816 of annual collections of the
581 state recordation taxes attributable to the Cities of Alexandria, Fairfax, Falls Church, Manassas, and
582 Manassas Park and the Counties of Arlington, Fairfax, Loudoun, and Prince William; however, this
583 dedication shall not affect the local recordation taxes under ~~§§ 58.1-802 B subsections B and C of~~
584 ~~§ 58.1-802~~ and § 58.1-814. The Fund shall also include any public rights-of-way use fees appropriated
585 by the General Assembly; any state or local revenues, including but not limited to, any funds distributed
586 pursuant to § 33.1-23.3, 33.1-23.4 or 33.1-23.5:1, which may be deposited into the Fund pursuant to a
587 contract between a jurisdiction participating in the Northern Virginia Transportation District Program and
588 the Commonwealth Transportation Board; and any other funds as may be appropriated by the General
589 Assembly from time to time and designated for this Fund and all interest, dividends and appreciation
590 which may accrue thereto. Any moneys remaining in the Fund at the end of a biennium shall not revert
591 to the general fund, but shall remain in the Fund, subject to the determination by the Commonwealth
592 Transportation Board that a Category 2, 3 or 4 project or projects may be funded.

593 B. Allocations from this Fund may be paid (i) to any authority, locality or commission for the
594 purposes of paying the costs of the Northern Virginia Transportation District Program which consists of
595 the following: the Fairfax County Parkway, Route 234 Bypass, Metrorail Capital Improvements
596 attributable to Fairfax County including Metro parking expansions, Metro Capital Improvements,
597 including the Franconia-Springfield Metrorail Station and new rail car purchases, Route 7 improvements
598 in Loudoun County and Fairfax County, the Route 50/Courthouse Road interchange improvements in
599 Arlington County, the Route 28/Route 625 interchange improvements in Loudoun County, Metrorail
600 capital improvements attributable to the City of Alexandria including the King Street Metrorail Station
601 access, Metrorail capital improvements attributable to Arlington County, including Ballston Station
602 improvements, Route 15 safety improvements in Loudoun County, Route 28 parallel roads in Loudoun
603 County, the Route 28/Sterling Boulevard interchange in Loudoun County, Route 1/Route 123
604 interchange improvements in Prince William County, Lee Highway improvements in the City of Fairfax,
605 Route 123 improvements in Fairfax County, Telegraph Road improvements in Fairfax County, Route
606 123 Occoquan River Bridge, Gallows Road in Fairfax County, Route 1/Route 234 interchange
607 improvements in Prince William County, Potomac-Rappahannock Transportation Commission bus
608 replacement program, and Dulles Corridor Enhanced Transit program and (ii) for Category 4 projects as
609 provided in § 2 of the act or acts authorizing the issuance of Bonds for the Northern Virginia
610 Transportation District Program.

611 C. On or before July 15, 1994, \$19 million shall be transferred to the Fund. Such transfer shall be
612 made by the issuance of a treasury loan at no interest in the amount of \$19 million in the event such an

amount is not included for the Fund in the general appropriation act enacted by the 1994 Session of the General Assembly. Such treasury loan shall be repaid from the Commonwealth's portion of the state recordation tax imposed by Chapter 8 (§ 58.1-800 et seq.) of Title 58.1 designated for the Fund by this section and § 58.1-816.

§ 58.1-816.1. Transportation Improvement Program Set-aside Fund.

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 Transportation Improvement Program Set-aside Fund ("Set-aside Fund"), consisting of transfers pursuant to § 58.1-816 of annual collections of the state recordation taxes attributable to any local jurisdiction which adopts an ordinance to dedicate and use its share of state recordation tax distributions for transportation purposes; however, this dedication shall not affect the local recordation taxes under §§ ~~58.1-802 B subsections B and C of~~ § 58.1-802 and § 58.1-814. Any local jurisdiction making such an election shall transmit a copy of its ordinance to the State Treasurer at least ninety days before transfers to the Set-aside Fund are to take effect. The State Treasurer is hereby authorized to commingle the funds of the various local jurisdictions in the Set-aside Fund, subject to the establishment of an accounting system which allows for the separate tracking of each local jurisdiction's share. The election to participate in the Set-aside Fund shall be revocable by the passage of an ordinance to that effect; however, if debt has been issued or other obligations incurred on the local jurisdiction's behalf, the election to participate shall be irrevocable so long as such bonds, or other obligations, are outstanding. A permitted revocation shall entitle the local jurisdiction to receive its remaining share, plus earnings and less the Treasurer's investment charges.

The Set-aside Fund shall also include such other funds as may be appropriated by the General Assembly from time to time and designated for the Set-aside Fund and all interest, dividends and appreciation which may accrue thereto. Any moneys remaining in the Set-aside Fund at the end of a biennium shall not revert to the general fund, but shall remain in the Set-aside Fund. Allocations from the Set-aside Fund may be paid to any authority, locality or commission for the purposes of paying the costs of any Transportation Improvement Program in which the local jurisdiction elects to participate.

2. That each county or city which imposes the tax pursuant to § 58.1-802.1 of the Code of Virginia shall for each fiscal year in which it imposes such tax expend or disburse for transportation purposes an amount (computed without regard to any revenues used for transportation purposes pursuant to § 58.1-802.1) 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.

3. That any revenues dedicated to the Northern Virginia Transportation Authority pursuant to the provisions of this act 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 B of § 58.1-603 or subsection B of § 58.1-604 of the Code of Virginia. 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.