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SENATE BILL NO. 6009

Offered June 23, 2008

A *BILL to amend and reenact §§ 15.2-4838, 15.2-4838.1, 15.2-4840, 58.1-540, 58.1-603, 58.1-604, 58.1-604.1, 58.1-608.3, 58.1-612, 58.1-614, 58.1-638, 58.1-639, 58.1-802, 58.1-811, 58.1-815, 58.1-815.1, 58.1-816.1, 58.1-2217, 58.1-2249, 58.1-2289, as it is currently effective and as it may become effective, 58.1-2402, 58.1-2403, as it shall become effective, 58.1-2425, 58.1-2701, as it is currently effective and as it may become effective, and 58.1-2706 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 48.2 of Title 15.2 a section numbered 15.2-4841, by adding in Article 1.1 of Chapter 1 of Title 33.1 a section numbered 33.1-23.5:3, by adding a section numbered 58.1-603.1, and by adding in Title 58.1 a chapter numbered 6.01, consisting of a section numbered 58.1-639.1; and to repeal §§ 46.2-755.1, 46.2-755.2, 46.2-1167.1, 58.1-625.1, 58.1-802.1, 58.1-2402.1, and 58.1-3825.1 and to repeal the thirteenth and eighteenth enactments of Chapter 896 of the Acts of Assembly of 2007, relating to transportation funding and administration, including taxes and fees for transportation funding.*

Patrons—Saslaw, Howell, Lucas, Marsh, Miller, J.C., Miller, Y.B., Northam, Puckett, Puller and Whipple

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That the General Assembly of Virginia finds that (i) an adequate, efficient, and safe transportation system is important to the economic well-being of the Commonwealth, its regions, its localities, and its citizens; (ii) the increasing costs of and growing demands upon the Commonwealth's transportation system require additional funding from time to time so that an adequate, efficient, and safe transportation system is available throughout the Commonwealth; and (iii) the financing and operations of an adequate, efficient, and safe transportation system are state responsibilities with assistance from federal, regional, private, and local partners.

2. That §§ 15.2-4838, 15.2-4838.1, 15.2-4840, 58.1-540, 58.1-603, 58.1-604, 58.1-604.1, 58.1-608.3, 58.1-612, 58.1-614, 58.1-638, 58.1-639, 58.1-802, 58.1-811, 58.1-815, 58.1-815.1, 58.1-816.1, 58.1-2217, 58.1-2249, 58.1-2289, as it is currently effective and as it may become effective, 58.1-2402, 58.1-2403, as it shall become effective, 58.1-2425, 58.1-2701, as it is currently effective and as it may become effective, and 58.1-2706 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 48.2 of Title 15.2 a section numbered 15.2-4841, by adding in Article 1.1 of Chapter 1 of Title 33.1 a section numbered 33.1-23.5:3, by adding a section numbered 58.1-603.1, and by adding in Title 58.1 a chapter numbered 6.01, consisting of a section numbered 58.1-639.1, as follows:

§ 15.2-4838. Responsibilities of Authority for long-range transportation planning.

A. The Authority shall be responsible for long-range transportation planning for regional transportation projects in Northern Virginia. In carrying out this responsibility, the Authority shall, on the basis of a regional consensus, whenever possible, set regional transportation policies and priorities for regional transportation projects. The policies and priorities shall be guided by performance-based criteria such as the ability to improve travel times, reduce delays, connect regional activity centers, improve safety, improve air quality, and move the most people in the most cost-effective manner.

B. The Authority shall report annually on (i) the allocation and expenditure of all moneys deposited to the Special Fund Account of the Northern Virginia Transportation Authority pursuant to subsection D of ~~§ 58.1-604.5 Northern Virginia Transportation Authority Revenue Fund established under~~ § 15.2-4841; (ii) use of these moneys to reduce traffic congestion in the counties and cities ~~described in~~ subsections A and B of ~~§ 58.1-604.5 embraced by the Authority~~; and (iii) use of these moneys to improve air quality in such counties and cities and in the Washington Metropolitan Area.

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

A. All moneys received by the Authority and the proceeds of bonds issued pursuant to § 15.2-4839 shall be used by the Authority solely for transportation purposes benefiting those counties and cities that are embraced by the Authority.

B. Forty percent of the revenues shall be distributed on a pro rata basis, with each locality's share being the total of such fees and taxes assessed or imposed by the Authority and the revenues received by the Authority that are generated or attributable to the locality divided by the total of such fees and taxes assessed or imposed by the Authority and revenues received by the Authority. Of the revenues distributed pursuant to this subsection (i) in the Cities of Falls Church and Alexandria and the County of

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58 Arlington the first 50% shall be used solely for urban or secondary road construction and improvements
59 and for public transportation purposes, and (ii) in the remaining localities, the first 50% shall be used
60 solely for urban or secondary road construction and improvements. The remainder, as determined solely
61 by the applicable locality, shall be used ~~either~~ for additional urban or secondary road construction; ~~for~~
62 other transportation capital improvements ~~which that~~ have been approved ~~by~~ *in* the most recent long
63 range transportation plan adopted by the Authority; ~~or for~~, and public transportation purposes ~~that have~~
64 ~~been approved in the most recent long range transportation plan adopted by the Authority. Solely for~~
65 ~~purposes of calculating the 40% of revenues to be distributed pursuant to this subsection, the revenue~~
66 ~~generated pursuant to § 58.1-3221.3 and Article 8 (§ 15.2-2317 et seq.) of Chapter 22 of this title by the~~
67 ~~counties and cities embraced by the Authority. The net revenues deposited into the Northern Virginia~~
68 ~~Transportation Revenue Fund established under § 15.2-4841 shall be considered revenue of the~~
69 ~~Authority.~~

70 None of the revenue distributed ~~by~~ *under* this subsection may be used to repay debt issued before
71 ~~July 1, 2007~~ *September 30, 2008*. Each locality shall provide annually to the Northern Virginia
72 Transportation Authority sufficient documentation as required by the Authority showing that the funds
73 distributed under this subsection were used as required by this subsection.

74 C. The remaining 60% of the revenues from such sources shall be used by the Authority solely for
75 transportation projects and purposes that benefit the counties and cities embraced by the Authority.

76 1. The revenues under this subsection shall be used first to pay any debt service owing on any bonds
77 issued pursuant to § 15.2-4839, and then as follows:

78 a. The next \$50 million each fiscal year shall be distributed to the Washington Metropolitan Area
79 Transit Authority (WMATA) and shall be used for capital improvements benefiting the area embraced
80 by the Authority for WMATA's transit service (Metro). The Authority shall first make use of that
81 portion of such annual distribution as may be necessary under the requirements of federal law for the
82 payment of federal funds to WMATA, but only if the matching federal funds are exclusive of and in
83 addition to the amount of other federal funds appropriated for such purposes and are in an amount not
84 less than the amount of such funds appropriated in the federal fiscal year ending September 30, 2007;

85 For each year after 2018 any portion of the amount distributed pursuant to this ~~subsection~~ *subdivision*
86 may be used for mass transit improvements in Prince William County; *and*

87 b. The next \$25 million each fiscal year shall be distributed to the Virginia Railway Express for
88 operating and capital improvements *in the counties and cities embraced by the Authority*, including but
89 not limited to track lease payments, construction of parking, dedicated rail on the Fredericksburg line,
90 rolling stock, expanded service in ~~Prince William County~~, and service as may be needed as a result of
91 the Base Realignment and Closure Commission's action regarding Fort Belvoir *the counties and cities*
92 *and embraced by the Authority, and construction of track and station improvements.*

93 2. All transportation projects undertaken by the Northern Virginia Transportation Authority shall be
94 completed by private contractors accompanied by performance measurement standards, and all contracts
95 shall contain a provision granting the Authority the option to terminate the contract if contractors do not
96 meet such standards. Notwithstanding the foregoing, any locality may provide engineering services or
97 right-of-way acquisition for any project with its own forces. The Authority shall avail itself of the
98 strategies permitted under the Public-Private Transportation Act (§ 56-556 et seq.) whenever feasible and
99 advantageous. The Authority is independent of any state or local entity, including the Virginia
100 Department of Transportation (VDOT) and the Commonwealth Transportation Board (CTB), but the
101 Authority, VDOT, *any affected local jurisdiction*, and CTB shall consult with one another to avoid
102 duplication of efforts and, at the option of the Authority, may combine efforts to complete specific
103 projects. Notwithstanding the foregoing, at the request of the Authority, VDOT *or the affected local*
104 *jurisdiction* may provide the Authority with engineering services or right-of-way acquisition for the
105 project with its own forces. When determining what projects to construct under this subsection, the
106 Authority shall base its decisions on the combination that *best* (i) equitably distributes the funds
107 throughout the ~~localities~~, *and counties and cities embraced by the Authority*, (ii) constructs projects that
108 move the most people or commercial traffic in the most cost-effective manner, and ~~on such other factors~~
109 ~~as approved by the Authority~~ (iii) *achieves the goals for the area embraced by the Authority pursuant to*
110 *the fifth enactment of Chapter 896 of the Acts of Assembly of 2007.*

111 3. All revenues deposited to the credit of the Authority shall be used for projects benefiting the
112 localities embraced by the Authority, ~~with each locality's total long-term benefits being approximately~~
113 ~~equal to the total of the fees and taxes received by the Authority that are generated by or attributable to~~
114 ~~the locality divided by the total of such fees and taxes received by the Authority that achieve the goals~~
115 ~~established pursuant to the fifth enactment of Chapter 896 of the Acts of Assembly of 2007. The~~
116 ~~long-range plan adopted pursuant to § 15.2-4840 shall ensure that the total long-term benefits for each~~
117 ~~county and city embraced by the Authority shall be approximately equal to the total long-term estimate~~
118 ~~of the revenues to be received by the Authority from the taxes under §§ 58.1-603.1, 58.1-639.1, and~~
119 ~~58.1-802 that are generated by or attributable to the locality divided by the total long-term estimate of~~

the total revenues to be received by the Authority from such taxes.

D. For road construction and improvements pursuant to subsection B, the Department of Transportation may, on a reimbursement basis, provide the locality with planning, engineering, right-of-way, and construction services for projects funded in whole by the revenues provided to the locality by the Authority available pursuant to § 15.2-4841.

§ 15.2-4840. Other duties and responsibilities of Authority.

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

1. General oversight of regional programs involving mass transit or congestion mitigation, including, but not necessarily limited to, carpooling, vanpooling, and ridesharing;

2. Long-range regional planning, both financially constrained and unconstrained;

3. Recommending to state, regional, and federal agencies regional transportation priorities, including public-private transportation projects, and funding allocations;

4. Developing, in coordination with affected counties and cities, regional priorities and policies to improve air quality;

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

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

7. Imposing, collecting, and setting the amount of tolls for use of facilities in the area embraced by the Authority, when the facility is either newly constructed or reconstructed solely with revenues of the Authority or solely with revenues under the control of the Authority in such a way as to increase the facility's traffic capacity, with the amount of any tolls variable by time of day, day of the week, vehicle size or type, number of axles, or other factors as the Authority may deem proper, and with all such tolls to be used for programs and projects that are reasonably related to or benefit the users of the applicable facility, including, but not limited to, for the debt service and other costs of bonds whose proceeds are used for such construction or reconstruction;

8. General oversight of regional transportation issues of a multijurisdictional nature, including but not limited to intelligent transportation systems, signalization, and preparation for and response to emergencies;

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

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

11. Acting as a "responsible public entity" for the purpose of the acquisition, construction, improvement, maintenance and/or operation of a "qualifying transportation facility" under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.); and

12. To decide and vote to impose certain fees and taxes authorized under law for imposition or assessment by the Authority, provided that any such fee or tax assessed or imposed is assessed or imposed in all counties and cities embraced by the Authority. The revenues from such certain fees and taxes shall be kept in a separate account and shall be used only for the purposes provided in this chapter.

§ 15.2-4841. Northern Virginia Transportation Authority Revenue Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Northern Virginia Transportation Authority Revenue Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. The revenues designated for the Fund under subsection H of § 58.1-638 and §§ 58.1-639.1 and 58.1-802 and all other moneys designated for the Fund from any other source, public or private, 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 solely for the purposes as provided in this chapter. At least monthly the Comptroller shall distribute the balance in the Fund to the Authority.

All moneys deposited into the Fund shall be in addition to all other allocations under this Code for transportation facilities, road or highway maintenance, mass transit, airports, seaports, or transportation

181 or transit operating costs and not in lieu of the same. Such other allocations shall not be computed or
182 determined or administered in any manner that takes into consideration any moneys deposited into the
183 Fund.

184 § 33.1-23.5:3. Supplemental Highway Maintenance and Mass Transit Fund established, use of certain
185 revenues in the Fund.

186 A. There is hereby created in the state treasury a special nonreverting fund to be known as the
187 Supplemental Highway Maintenance and Mass Transit Fund, hereafter referred to as "the Fund." The
188 Fund shall be established on the books of the Comptroller. All revenues described under subsection G of
189 § 58.1-638, § 58.1-2289, and subsection B of § 58.1-2425 that are designated for the Fund shall be paid
190 into the state treasury and credited to the Fund. The Fund shall also consist of such other revenues
191 appropriated by the General Assembly to the Fund or otherwise designated for the Fund from any other
192 source, public or private. Interest earned on moneys in the Fund shall remain in the Fund and be
193 credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal
194 year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be
195 used solely for the purposes set forth in subsection B. Expenditures and disbursements from the Fund
196 shall be made by the State Treasurer on warrants issued by the Comptroller.

197 B. 1. Twenty-five percent of all moneys deposited into the Fund shall be distributed by the
198 Comptroller into the Commonwealth Mass Transit Fund established under subdivision A 4 of § 58.1-638
199 and shall be used as provided in such subdivision.

200 2. Except as otherwise provided in this subdivision, the remaining 75 percent of such moneys shall
201 be allocated in each year by the Commonwealth Transportation Board for road or highway maintenance
202 in each construction district described in § 33.1-2. The amount allocated to each construction district
203 shall be computed on a pro rata basis based upon the sum of the total revenues attributable to each
204 construction district from (i) a 0.25 percent increase in the state sales and use tax under Chapter 6
205 (§ 58.1-600 et seq.) of Title 58.1 as provided in subsection G of § 58.1-638, (ii) increases in the rates of
206 taxes under Chapter 22 (§ 58.1-2200 et seq.) of Title 58.1 pursuant to enactments of the 2008 Special
207 Session II of the Virginia General Assembly as provided in § 58.1-2289, plus (iii) a 0.50 percent
208 increase in the motor vehicle sales and use tax under Chapter 24 (§ 58.1-2400 et seq.) of Title 58.1 as
209 provided in subsection B of § 58.1-2425. Notwithstanding any other provision of this subdivision, the
210 proportion of such moneys allocated to the Bristol construction district shall not be less than the
211 proportion that is equal to the total funds allocated to such construction district for road or highway
212 maintenance by the Commonwealth Transportation Board in the Commonwealth's fiscal year ending
213 June 30, 2008, divided by the total funds allocated statewide for road or highway maintenance by the
214 Board in such fiscal year.

215 C. All moneys deposited into the Fund shall be in addition to all other allocations under this Code
216 for transportation facilities, road or highway maintenance, mass transit, airports, seaports, or
217 transportation or transit operating costs and not in lieu of the same. Such other allocations shall not be
218 computed or determined or administered in any manner that takes into consideration any moneys
219 deposited into the Fund.

220 § 58.1-540. Levy of the tax.

221 A. The Counties of Arlington, Fairfax, Loudoun, and Prince William, and the Cities of Alexandria,
222 Fairfax, Falls Church, Manassas, Manassas Park, Norfolk, and Virginia Beach are hereby authorized to
223 levy a local income tax at any increment of one-quarter percent up to a maximum rate of one percent
224 upon the Virginia taxable income as determined in § 58.1-322 for an individual, § 58.1-361 for a
225 fiduciary of an estate or trust, or § 58.1-402 for a corporation, for each taxable year of every resident of
226 such county or city or corporation having income from sources within such county or city, subject to the
227 limitations of subsection B of this section. The same rate shall apply to individuals, fiduciaries and
228 corporations.

229 B. The authority to levy a local income tax as provided in subsection A may be exercised by a
230 county or city governing body only if approved in a referendum within the county or city. The
231 referendum shall be held in accordance with § 24.2-684. The referendum may be initiated either by a
232 resolution of the governing body of the county or city or on the filing of a petition signed by a number
233 of registered voters of the county or city equal in number to ten percent of the number of voters
234 registered in the county or city on January 1 of the year in which the petition is filed with the circuit
235 court of such county or city. The clerk of the circuit court shall publish notice of the election in a
236 newspaper of general circulation in the county or city once a week for three consecutive weeks prior to
237 the election. The ballot used shall be printed to read as follows:

238 "Shall the governing body of (. . . name of county or city . . .) have the authority to levy a local
239 income tax of up to one percent for transportation purposes in accordance with § 58.1-540 of the Code
240 of Virginia?

241 _ Yes

242 _ No"

If the voters by a majority vote approve the authority of the local governing body to levy a local income tax, the tax may be imposed by the adoption of an ordinance by the governing body of the county or city in accordance with general or special law, and the tax may be thereafter enacted, modified or repealed as any other tax the governing body is empowered to levy subject only to the limitations herein. No ordinance levying a local income tax shall be repealed unless and until all debts or other obligations of the county or city to which such revenues are pledged or otherwise committed have been paid or provision made for payment.

§ 58.1-603. Imposition of sales tax.

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 ~~three and one-half percent through midnight on July 31, 2004, and four percent beginning on and after August 1, 2004~~ *four and one-quarter percent*:

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.

§ 58.1-603.1. *Imposition of additional state retail sales and use tax in certain counties and cities.*

A. There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a general retail sales and use tax at the rate of one-half of one percent in the Counties of Arlington, Fairfax, Loudoun, and Prince William, and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

B. The tax imposed under subsection A shall also apply to the tangible personal property described under §§ 58.1-604.1 and 58.1-614, mutatis mutandis.

C. The tax imposed under subsection A shall not apply to food purchased for human consumption as defined in § 58.1-611.1.

D. The tax imposed under subsection A shall be in addition to the state sales and use tax imposed under §§ 58.1-603, 58.1-604, 58.1-604.1, and 58.1-614.

E. The provisions of § 58.1-604 shall apply to the tax imposed under subsection A mutatis mutandis, except, as provided in subsection A, the rate of tax shall be one-half of one percent.

F. The tax imposed under subsection A shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state retail sales and use tax except as specifically provided otherwise, mutatis mutandis.

G. The revenues generated and collected pursuant to the tax imposed under subsection A shall be distributed as provided in subsection H of § 58.1-638.

§ 58.1-604. Imposition of use tax.

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 of ~~three and one-half percent through midnight on July 31, 2004, and four percent beginning on and after August 1, 2004~~ *four and one-quarter percent*:

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

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

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

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

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

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

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

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

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

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.

§ 58.1-608.3. Entitlement to certain sales tax revenues.

A. As used in this section, the following words and terms have the following meanings, unless some other meaning is plainly intended:

"Bonds" means any obligations of a municipality for the payment of money.

"Cost," as applied to any public facility or to extensions or additions to any public facility, includes: (i) the purchase price of any public facility acquired by the municipality or the cost of acquiring all of the capital stock of the corporation owning the public facility and the amount to be paid to discharge any obligations in order to vest title to the public facility or any part of it in the municipality; (ii) expenses incident to determining the feasibility or practicability of the public facility; (iii) the cost of plans and specifications, surveys and estimates of costs and of revenues; (iv) the cost of all land, property, rights, easements and franchises acquired; (v) the cost of improvements, property or equipment; (vi) the cost of engineering, legal and other professional services; (vii) the cost of construction or reconstruction; (viii) the cost of all labor, materials, machinery and equipment; (ix) financing charges; (x) interest before and during construction and for up to one year after completion of construction; (xi) start-up costs and operating capital; (xii) payments by a municipality of its share of the cost of any multijurisdictional public facility; (xiii) administrative expense; (xiv) any amounts to be deposited to reserve or replacement funds; and (xv) other expenses as may be necessary or incident to the financing of the public facility. Any obligation or expense incurred by the public facility in connection with any of the foregoing items of cost may be regarded as a part of the cost.

"Municipality" means any county, city, town, authority, commission, or other public entity.

"Public facility" means (i) any auditorium, coliseum, convention center, or conference center, which is owned by a Virginia county, city, town, authority, or other public entity and where exhibits, meetings, conferences, conventions, seminars, or similar public events may be conducted; (ii) any hotel which is

owned by a foundation whose sole purpose is to benefit a state-supported university and which is attached to and is an integral part of such facility, together with any lands reasonably necessary for the conduct of the operation of such events; or (iii) any hotel which is attached to and is an integral part of such facility. However, such public facility must be located in the City of Hampton, City of Newport News, City of Norfolk, City of Portsmouth, City of Roanoke, City of Salem, City of Staunton, or City of Suffolk. Any property, real, personal, or mixed, which is necessary or desirable in connection with any such auditorium, coliseum, convention center, or conference center, including, without limitation, facilities for food preparation and serving, parking facilities, and administration offices, is encompassed within this definition. However, structures commonly referred to as "shopping centers" or "malls" shall not constitute a public facility hereunder. A public facility shall not include residential condominiums, townhomes, or other residential units. In addition, only a new public facility, or a public facility which will undergo a substantial and significant renovation or expansion, shall be eligible under subsection B of this section. A new public facility is one whose construction began after December 31, 1991. A substantial and significant renovation entails a project whose cost is at least 50 percent of the original cost of the facility being renovated and shall have begun after December 31, 1991. A substantial and significant expansion entails an increase in floor space of at least 50 percent over that existing in the preexisting facility and shall have begun after December 31, 1991.

"Sales tax revenues" means such tax collections realized under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) of this title, as limited herein. "Sales tax revenues" does not include the revenue generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly which shall be paid to the Transportation Trust Fund as defined in § 33.1-23.03:1, nor shall it include the one percent of the state sales and use tax revenue distributed among the counties and cities of the Commonwealth pursuant to subsection D of § 58.1-638 on the basis of school age population. *"Sales tax revenues" also shall not include the revenues generated by any increase in the state sales and use tax rate, including the tax imposed under § 58.1-603.1, pursuant to enactments of the 2008 Special Session II of the Virginia General Assembly.*

B. Any municipality which has issued bonds (i) after December 31, 1991, but before January 1, 1996, (ii) on or after January 1, 1998, but before July 1, 1999, (iii) on or after January 1, 1999, but before July 1, 2001, (iv) on or after July 1, 2000, but before July 1, 2003, (v) on or after July 1, 2001, but before July 1, 2005, or (vi) on or after July 1, 2004, but before July 1, 2007, to pay the cost, or portion thereof, of any public facility shall be entitled to all sales tax revenues generated by transactions taking place in such public facility. Such entitlement shall continue for the lifetime of such bonds, which entitlement shall not exceed 35 years, and all such sales tax revenues shall be applied to repayment of the bonds. The State Comptroller shall remit such sales tax revenues to the municipality on a quarterly basis, subject to such reasonable processing delays as may be required by the Department of Taxation to calculate the actual net sales tax revenues derived from the public facility. The State Comptroller shall make such remittances to eligible municipalities, as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.). No such remittances shall be made until construction is completed and, in the case of a renovation or expansion, until the governing body of the municipality has certified that the renovation or expansion is completed.

C. Nothing in this section shall be construed as authorizing the pledging of the faith and credit of the Commonwealth of Virginia, or any of its revenues, for the payment of any bonds. Any appropriation made pursuant to this section shall be made only from sales tax revenues derived from the public facility for which bonds may have been issued to pay the cost, in whole or in part, of such public facility.

§ 58.1-612. Tax collectible from dealers; "dealer" defined; jurisdiction.

A. The tax levied by §§ 58.1-603, 58.1-603.1, and 58.1-604 shall be collectible from all persons who are dealers, as hereinafter defined, and who have sufficient contact with the Commonwealth to qualify under subsections B and C hereof.

B. The term "dealer," as used in this chapter, shall include every person who:

1. Manufactures or produces tangible personal property for sale at retail, for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth;

2. Imports or causes to be imported into this Commonwealth tangible personal property from any state or foreign country, for sale at retail, for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth;

3. Sells at retail, or who offers for sale at retail, or who has in his possession for sale at retail, or for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth, tangible personal property;

4. Has sold at retail, used, consumed, distributed, or stored for use or consumption in this Commonwealth, tangible personal property and who cannot prove that the tax levied by this chapter has been paid on the sale at retail, the use, consumption, distribution, or storage of such tangible personal

427 property;

428 5. Leases or rents tangible personal property for a consideration, permitting the use or possession of
429 such property without transferring title thereto;

430 6. Is the lessee or rentee of tangible personal property and who pays to the owner of such property a
431 consideration for the use or possession of such property without acquiring title thereto;

432 7. As a representative, agent, or solicitor, of an out-of-state principal, solicits, receives and accepts
433 orders from persons in this Commonwealth for future delivery and whose principal refuses to register as
434 a dealer under § 58.1-613; or

435 8. Becomes liable to and owes this Commonwealth any amount of tax imposed by this chapter,
436 whether he holds, or is required to hold, a certificate of registration under § 58.1-613.

437 C. A dealer shall be deemed to have sufficient activity within the Commonwealth to require
438 registration under § 58.1-613 if he:

439 1. Maintains or has within this Commonwealth, directly or through an agent or subsidiary, an office,
440 warehouse, or place of business of any nature;

441 2. Solicits business in this Commonwealth by employees, independent contractors, agents or other
442 representatives;

443 3. Advertises in newspapers or other periodicals printed and published within this Commonwealth, on
444 billboards or posters located in this Commonwealth, or through materials distributed in this
445 Commonwealth by means other than the United States mail;

446 4. Makes regular deliveries of tangible personal property within this Commonwealth by means other
447 than common carrier. A person shall be deemed to be making regular deliveries hereunder if vehicles
448 other than those operated by a common carrier enter this Commonwealth more than twelve times during
449 a calendar year to deliver goods sold by him;

450 5. Solicits business in this Commonwealth on a continuous, regular, seasonal, or systematic basis by
451 means of advertising that is broadcast or relayed from a transmitter within this Commonwealth or
452 distributed from a location within this Commonwealth;

453 6. Solicits business in this Commonwealth by mail, if the solicitations are continuous, regular,
454 seasonal, or systematic and if the dealer benefits from any banking, financing, debt collection, or
455 marketing activities occurring in this Commonwealth or benefits from the location in this
456 Commonwealth of authorized installation, servicing, or repair facilities;

457 7. Is owned or controlled by the same interests which own or control a business located within this
458 Commonwealth;

459 8. Has a franchisee or licensee operating under the same trade name in this Commonwealth if the
460 franchisee or licensee is required to obtain a certificate of registration under § 58.1-613; or

461 9. Owns tangible personal property that is rented or leased to a consumer in this Commonwealth, or
462 offers tangible personal property, on approval, to consumers in this Commonwealth.

463 D. Notwithstanding any other provision of this section, the following shall not be considered to
464 determine whether a person who has contracted with a commercial printer for printing in the
465 Commonwealth is a "dealer" and whether such person has sufficient contact with the Commonwealth to
466 be required to register under § 58.1-613:

467 1. The ownership or leasing by that person of tangible or intangible property located at the Virginia
468 premises of the commercial printer which is used solely in connection with the printing contract with the
469 person;

470 2. The sale by that person of property of any kind printed at and shipped or distributed from the
471 Virginia premises of the commercial printer;

472 3. Activities in connection with the printing contract with the person performed by or on behalf of
473 that person at the Virginia premises of the commercial printer; and

474 4. Activities in connection with the printing contract with the person performed by the commercial
475 printer within Virginia for or on behalf of that person.

476 E. In addition to the jurisdictional standards contained in subsection C of this section, nothing
477 contained herein (other than subsection D) shall limit any authority which this Commonwealth may
478 enjoy under the provisions of federal law or an opinion of the United States Supreme Court to require
479 the collection of sales and use taxes by any dealer who regularly or systematically solicits sales within
480 this Commonwealth. Furthermore, nothing contained in subsection C shall require any broadcaster,
481 printer, outdoor advertising firm, advertising distributor, or publisher which broadcasts, publishes, or
482 displays or distributes paid commercial advertising in this Commonwealth which is intended to be
483 disseminated primarily to consumers located in this Commonwealth to report or impose any liability to
484 pay any tax imposed under this chapter solely because such broadcaster, printer, outdoor advertising
485 firm, advertising distributor, or publisher accepted such advertising contracts from out-of-state advertisers
486 or sellers.

487 § 58.1-614. Vending machine sales.

488 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~~ *five and one-quarter percent*.

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

550 provided in subdivision A 3 a. Except for adjustments due to changes in enplaned passengers, no air
551 carrier airport sponsor, excluding MWAA, shall receive less funds identified under subdivision A 3 a
552 than it received in fiscal year 1994-1995.

553 Of the remaining amount:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

608 f. The remaining 25 percent shall be distributed for capital purposes on the basis of 95 percent of the
609 nonfederal share for federal projects and 95 percent of the total costs for nonfederal projects. In the
610 event that total capital funds available under this subdivision are insufficient to fund the complete list of
611 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 revenues from the 0.25 percent increase in the rates of taxes under §§ 58.1-603, 58.1-604, 58.1-604.1, and 58.1-614 (less the applicable portion of any refunds and after subtraction of the direct costs of administration by the Department of Taxation) pursuant to enactments of the 2008 Special Session II of the Virginia General Assembly shall be deposited into the Supplemental Highway Maintenance and Mass Transit Fund established under § 33.1-23.5:3.*

For purposes of such deposits, the Tax Commissioner shall provide a monthly certification to the Comptroller reporting the revenues generated in the preceding month from such increases in rates, which certification shall also report such revenues generated in the preceding month attributable to each county and city. The certification for each month shall be provided to the Comptroller no later than the twenty-fifth of the immediately following month. The Comptroller shall deposit an amount equal to each month's revenues (as reported in the Tax Commissioner's certification) into the Fund no later than the last day of the same month in which the certification was made by the Tax Commissioner.

H. *The revenues from the tax imposed under § 58.1-603.1 (less the applicable portion of any refunds and after subtraction of the direct costs of administration by the Department of Taxation) shall be deposited into the Northern Virginia Transportation Authority Revenue Fund established under § 15.2-4841.*

For purposes of depositing such revenues into the Fund, there shall be deposited into the Fund an estimate developed by the Department of such revenues to be received into the state treasury each month, net of the estimated applicable portion of any refunds to taxpayers and after subtraction of the direct costs of administration by the Department of Taxation. For each such estimate developed, the Tax Commissioner shall provide a written certification to the Comptroller and to the Chairman of the Northern Virginia Transportation Authority established under § 15.2-4830 reporting such estimated revenues attributable to each county and city embraced by the Northern Virginia Transportation Authority. Such estimated payments into the Fund shall be adjusted for the actual net revenues received in the preceding month.

GI. 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.

HJ. 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~~ any increase in the state sales and use tax rate effective August 1, 2004, enacted by the 2004 Special Session I of the Virginia General Assembly, including the tax imposed under § 58.1-603.1, pursuant to enactments of the 2008 Special Session II of the Virginia

General Assembly, 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~~ December 31, 2008. 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~~ December 31, 2008, 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.

CHAPTER 6.01.

NORTHERN VIRGINIA REGION HOTEL TAX.

§ 58.1-639.1. *Additional hotel tax in certain counties and cities in Northern Virginia.*

In addition to such other transient occupancy taxes as are authorized or imposed under law, there is hereby imposed an additional transient occupancy tax at the rate of \$5 per day, or for any portion of the day, upon the occupancy of any room, lodging space, or accommodation furnished to transients for less than 90 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping ground, club, or any other place in which rooms, lodging spaces, or accommodations are regularly furnished to transients for a consideration. The tax shall only apply to such rooms, lodging spaces, or accommodations furnished within the Counties of Arlington, Fairfax, Loudoun, and Prince William, and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. The tax shall be collected under the same regulations, rules, and policies that are applicable to the retail sales tax on rooms, lodgings, and accommodations described in subdivision A 4 of § 58.1-603 and shall be collected in the same manner as such retail sales tax. No discount shall be allowed to any person for accounting for and remitting the tax levied by this chapter. The Comptroller shall deposit all revenues from the tax imposed under this section (less any refunds and after subtraction of the direct costs of administration by the Department of Taxation) into the Northern Virginia Transportation Authority Revenue Fund established under § 15.2-4841.

For purposes of depositing such revenues into the Fund, there shall be deposited into the Fund an estimate developed by the Department of Taxation of such revenues to be received into the state treasury each month, net of the estimated applicable portion of any refunds to taxpayers and after subtraction of the direct costs of administration by the Department of Taxation. For each such estimate developed, the Tax Commissioner shall provide a written certification to the Comptroller and to the Chairman of the Northern Virginia Transportation Authority established under § 15.2-4830 reporting such estimated revenues attributable to each county and city embraced by the Northern Virginia Transportation Authority. Such estimated payments into the Fund shall be adjusted for the actual net revenues received in the preceding month.

§ 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, whichever is greater, 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

796 one-half into the treasury of the locality.

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

800 Every clerk of court collecting taxes under this section for the county or city which he serves shall
801 be entitled to compensation for such service at five percent of the amount so collected and paid.

802 *C. The rate of the tax imposed pursuant to this section, when the consideration or value of the*
803 *interest exceeds \$100, shall be 50 cents for each \$100 or fraction thereof for such realty that is located*
804 *in the Counties of Arlington, Fairfax, Loudoun, and Prince William, and the Cities of Alexandria,*
805 *Fairfax, Falls Church, Manassas, and Manassas Park, exclusive of the value of any lien or*
806 *encumbrance remaining thereon at the time of the sale, whether such lien is assumed or the realty is*
807 *sold subject to such lien or encumbrance.*

808 *The clerk shall return taxes collected hereunder for realty that is located in the Counties of*
809 *Arlington, Fairfax, Loudoun, and Prince William, and the Cities of Alexandria, Fairfax, Falls Church,*
810 *Manassas, and Manassas Park as follows: (i) taxes collected at the rate of 40 cents for each \$100 or*
811 *fraction thereof as determined pursuant to subsection A shall be returned by the clerk to the state*
812 *treasury, and such revenues shall be deposited by the Comptroller into the Northern Virginia*
813 *Transportation Authority Revenue Fund established under § 15.2-4841 as soon as practicable; (ii) taxes*
814 *collected at the rate of 5 cents for each \$100 or fraction thereof shall be returned by the clerk to the*
815 *state treasury, and such revenues shall be deposited by the Comptroller into the general fund of the*
816 *state treasury; and (iii) taxes collected at the rate of 5 cents for each \$100 or fraction thereof shall be*
817 *returned by the clerk into the treasury of such county or city in which the realty is located.*

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

820 § 58.1-811. Exemptions.

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

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

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

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

831 4. To the Virginia Division of the United Daughters of the Confederacy;

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

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

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

840 8. To the surviving or new corporation, partnership, limited partnership, business trust, or limited
841 liability company upon a merger or consolidation to which two or more such entities are parties, or in a
842 reorganization within the meaning of § 368 (a) (1) (C) and (F) of the Internal Revenue Code as
843 amended;

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

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

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

855 12. To trustees of a revocable inter vivos trust, when the grantors in the deed and the beneficiaries of
856 the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust
857 instrument, when no consideration has passed between the grantor and the beneficiaries; and to the

original beneficiaries of a trust from the trustees holding title under a deed in trust;

13. When the grantor is the personal representative of a decedent's estate or trustee under a will or inter vivos trust of which the decedent was the settlor, other than a security trust defined in § 55-58.1, 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 Amherst County or the City of Lynchburg.

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 imposed by § 58.1-802 and the fees imposed by ~~§ 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 subject to the fee under ~~§ 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 and fees 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.

I. No recordation tax levied pursuant to this chapter shall be levied on a deed, lease, easement, release, or other document recorded in connection with a concession pursuant to the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) or similar federal law.

§ 58.1-815. U.S. Route 58 Corridor Development 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 U.S. Route 58 Corridor Development Fund, consisting of the first \$40 million of annual collections of the state recordation taxes imposed by this chapter; provided, however, this dedication shall not affect the local recordation taxes under ~~§§ 58.1-802 B and subsections B and C of § 58.1-802 and § 58.1-814~~. The Fund shall also include such other funds as may be appropriated by the General Assembly from time to time, and designated for this Fund and all interest, dividends and appreciation which may accrue thereto. Any

919 moneys remaining in the Fund at the end of a biennium shall not revert to the General Fund, but shall
920 remain in the Fund. Allocations from this Fund may be paid to any authority, locality or commission for
921 the purposes specified in § 33.1-221.1:2.

922 § 58.1-815.1. Northern Virginia Transportation District Fund.

923 A. There is hereby created in the Department of the Treasury a special nonreverting fund which shall
924 be a part of the Transportation Trust Fund and which shall be known as the Northern Virginia
925 Transportation District Fund, consisting of transfers pursuant to § 58.1-816 of annual collections of the
926 state recordation taxes attributable to the Cities of Alexandria, Fairfax, Falls Church, Manassas, and
927 Manassas Park and the Counties of Arlington, Fairfax, Loudoun, and Prince William; however, this
928 dedication shall not affect the local recordation taxes under ~~§§ 58.1-802 B and subsections B and C of~~
929 ~~§ 58.1-802 and~~ § 58.1-814. The Fund shall also include any public rights-of-way use fees appropriated
930 by the General Assembly; any state or local revenues, including but not limited to, any funds distributed
931 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
932 contract between a jurisdiction participating in the Northern Virginia Transportation District Program and
933 the Commonwealth Transportation Board; and any other funds as may be appropriated by the General
934 Assembly from time to time and designated for this Fund and all interest, dividends and appreciation
935 which may accrue thereto. Any moneys remaining in the Fund at the end of a biennium shall not revert
936 to the general fund, but shall remain in the Fund, subject to the determination by the Commonwealth
937 Transportation Board that a Category 2, 3 or 4 project or projects may be funded.

938 B. Allocations from this Fund may be paid (i) to any authority, locality or commission for the
939 purposes of paying the costs of the Northern Virginia Transportation District Program which consists of
940 the following: the Fairfax County Parkway, Route 234 Bypass, Metrorail Capital Improvements
941 attributable to Fairfax County including Metro parking expansions, Metro Capital Improvements,
942 including the Franconia-Springfield Metrorail Station and new rail car purchases, Route 7 improvements
943 in Loudoun County and Fairfax County, the Route 50/Courthouse Road interchange improvements in
944 Arlington County, the Route 28/Route 625 interchange improvements in Loudoun County, Metrorail
945 capital improvements attributable to the City of Alexandria including the King Street Metrorail Station
946 access, Metrorail capital improvements attributable to Arlington County, including Ballston Station
947 improvements, Route 15 safety improvements in Loudoun County, Route 28 parallel roads in Loudoun
948 County, the Route 28/Sterling Boulevard interchange in Loudoun County, Route 1/Route 123
949 interchange improvements in Prince William County, Lee Highway improvements in the City of Fairfax,
950 Route 123 improvements in Fairfax County, Telegraph Road improvements in Fairfax County, Route
951 123 Occoquan River Bridge, Gallows Road in Fairfax County, Route 1/Route 234 interchange
952 improvements in Prince William County, Potomac-Rappahannock Transportation Commission bus
953 replacement program, and Dulles Corridor Enhanced Transit program and (ii) for Category 4 projects as
954 provided in § 2 of the act or acts authorizing the issuance of Bonds for the Northern Virginia
955 Transportation District Program.

956 C. On or before July 15, 1994, \$19 million shall be transferred to the Fund. Such transfer shall be
957 made by the issuance of a treasury loan at no interest in the amount of \$19 million in the event such an
958 amount is not included for the Fund in the general appropriation act enacted by the 1994 Session of the
959 General Assembly. Such treasury loan shall be repaid from the Commonwealth's portion of the state
960 recordation tax imposed by Chapter 8 (§ 58.1-800 et seq.) of Title 58.1 designated for the Fund by this
961 section and § 58.1-816.

962 § 58.1-816.1. Transportation Improvement Program Set-aside Fund.

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

978 The Set-aside Fund shall also include such other funds as may be appropriated by the General
979 Assembly from time to time and designated for the Set-aside Fund and all interest, dividends and
980 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.

§ 58.1-2217. Taxes levied; rate.

A. There is hereby levied a tax at the rate of ~~seventeen~~ eighteen and one-half cents per gallon on gasoline and gasohol, *which tax shall (i) increase to and be levied at the rate of nineteen and one-half cents per gallon beginning July 1, 2009; (ii) increase to and be levied at the rate of twenty and one-half cents per gallon beginning July 1, 2010; (iii) increase to and be levied at the rate of twenty-one and one-half cents per gallon beginning July 1, 2011; (iv) increase to and be levied at the rate of twenty-two and one-half cents per gallon beginning July 1, 2012; and (v) increase to and be levied at the rate of twenty-three and one-half cents per gallon on and after July 1, 2013.*

B. (Contingent expiration date - see Editor's notes) There is hereby levied a tax at the rate of ~~seventeen~~ eighteen and one-half cents per gallon on diesel fuel, *which tax shall (i) increase to and be levied at the rate of nineteen and one-half cents per gallon beginning July 1, 2009; (ii) increase to and be levied at the rate of twenty and one-half cents per gallon beginning July 1, 2010; (iii) increase to and be levied at the rate of twenty-one and one-half cents per gallon beginning July 1, 2011; (iv) increase to and be levied at the rate of twenty-two and one-half cents per gallon beginning July 1, 2012; and (v) increase to and be levied at the rate of twenty-three and one-half cents per gallon on and after July 1, 2013.*

B. (Contingent effective date - see Editor's notes) There is hereby levied a tax at the rate of ~~sixteen~~ ~~seventeen~~ cents per gallon on diesel fuel, *which tax shall (i) increase to and be levied at the rate of eighteen cents per gallon beginning July 1, 2009; (ii) increase to and be levied at the rate of nineteen cents per gallon beginning July 1, 2010; (iii) increase to and be levied at the rate of twenty cents per gallon beginning July 1, 2011; (iv) increase to and be levied at the rate of twenty-one cents per gallon beginning July 1, 2012; and (v) increase to and be levied at the rate of twenty-two cents per gallon on and after July 1, 2013.*

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 *provided in subsection A*, along with any penalties and interest that may accrue.

E. (Contingent expiration date - see Editor's notes) 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 ~~seventeen and one-half cents~~ per gallon *provided in subsection B*, along with any penalties and interest that may accrue.

E. (Contingent effective date - see Editor's notes) 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 cents~~ per gallon *provided in subsection B*, 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. (Contingent expiration date - see Editor's notes) There is hereby levied a tax at the rate of ~~seventeen~~ eighteen 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 ~~seventeen~~ eighteen 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. *The taxes under this subsection on such liquid alternative fuel and all other alternative fuel shall (i) increase to and be levied at the rate of nineteen and one-half cents per gallon beginning July 1, 2009; (ii) increase to and be levied at the rate of twenty and one-half cents per gallon beginning July 1, 2010; (iii) increase to and be levied at the rate of twenty-one and one-half cents per gallon beginning July 1, 2011; (iv) increase to and be levied at the rate of twenty-two and one-half cents per gallon beginning July 1, 2012; and (v) increase to and be levied at the rate of twenty-three and one-half cents per gallon on and after July 1, 2013.*

A. (Contingent effective date - see Editor's notes) There is hereby levied a tax at the rate of ~~sixteen~~ *seventeen* 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* 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. *The taxes under this subsection on such liquid alternative fuel and all other alternative fuel shall (i) increase to and be levied at the rate of eighteen cents per gallon beginning July 1, 2009; (ii) increase to and be levied at the rate of nineteen cents per gallon beginning July 1, 2010; (iii) increase to and be levied at the rate of twenty cents per gallon beginning July 1, 2011; (iv) increase to and be levied at the rate of twenty-one cents per gallon beginning July 1, 2012; and (v) increase to and be levied at the rate of twenty-two cents per gallon on and after July 1, 2013.*

B. In addition to any tax imposed by this article, there is hereby levied an annual license tax of fifty dollars 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.

§ 58.1-2289. (Contingent expiration date - see Editor's notes) Disposition of tax revenue generally.

A. Unless otherwise provided in this section, all taxes and fees, including civil penalties, collected by the Commissioner pursuant to this chapter, less a reasonable amount to be allocated for refunds, shall be promptly paid into the state treasury and shall constitute special funds within the Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds shall accrue to these funds. Except as provided in § 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 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. Except as provided in ~~subsection F~~ *subsections F and G*, the tax collected on each gallon of aviation fuel sold and delivered or used in this Commonwealth, less refunds, shall be paid into a special fund of the state treasury. Proceeds of this special fund within the Commonwealth Transportation Fund shall be disbursed upon order of the Department of Aviation, on warrants of the Comptroller, to defray the cost of the administration of the laws of this Commonwealth relating to aviation, for the construction, maintenance and improvement of airports and landing fields to which the public now has or which it is proposed shall have access, and for the promotion of aviation in the interest of operators and the public generally.

C. One-half cent of the tax collected on each gallon of fuel on which a refund has been paid for gasoline, gasohol, diesel fuel, blended fuel, or alternative fuel, for fuel consumed in tractors and unlicensed equipment used for agricultural purposes shall be paid into a special fund of the state treasury, known as the Virginia Agricultural Foundation Fund, to be disbursed to make certain refunds and defray the costs of the research and educational phases of the agricultural program, including supplemental salary payments to certain employees at Virginia Polytechnic Institute and State University, the Department of Agriculture and Consumer Services and the Virginia Truck and Ornamentals Research Station, including reasonable expenses of the Virginia Agricultural Council.

D. One and one-half cents of the tax collected on each gallon of fuel used to propel a commercial watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of

the state treasury to be made available to the Board of Game and Inland Fisheries until expended for the purposes provided generally in subsection C of § 29.1-701, including acquisition, construction, improvement and maintenance of public boating access areas on the public waters of this Commonwealth and for other activities and purposes of direct benefit and interest to the boating public and for no other purpose. However, one and one-half cents per gallon on fuel used by commercial fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be used for the construction, repair, improvement and maintenance of the public docks of this Commonwealth used by said commercial watercraft. Any expenditures for the acquisition, construction, improvement and maintenance of the public docks shall be made according to a plan developed by the Virginia Marine Resources Commission.

From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for the propelling of watercraft, after deduction for lawful refunds *and after deduction for the revenues deposited into the Supplemental Highway Maintenance and Mass Transit Fund established under § 33.1-23.5:3 pursuant to subsection G*, 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. The additional revenues, less any additional refunds authorized, generated by increases in the rates of taxes under this chapter pursuant to enactments of the 2007 Session of the General Assembly shall be collected pursuant to Article 4 of this chapter and deposited into the Highway Maintenance and Operating Fund.

G. The additional revenues (less any additional refunds authorized and the direct costs of administration by the Department in collecting such additional revenues) generated by increases in the rates of taxes under this chapter pursuant to enactments of the 2008 Special Session II of the Virginia General Assembly shall be collected pursuant to Article 4 (§ 58.1-2230 et seq.) of this chapter and deposited into the Supplemental Highway Maintenance and Mass Transit Fund established under § 33.1-23.5:3.

For purposes of such deposits, the Commissioner shall provide a monthly certification to the Comptroller reporting the net revenues generated by such increases in the most recently ended month for which such net revenues have been collected. As part of such certification, the Commissioner shall apportion such net revenues to each county and city of the Commonwealth using the same proportionate shares that the Tax Commissioner used in attributing sales and use tax revenues for the respective month pursuant to subsection G of § 58.1-638.

The monthly certification shall be provided to the Comptroller no later than the twenty-fifth of each month. The Comptroller shall deposit an amount equal to each month's net revenues (as reported in the Commissioner's certification) into the Supplemental Highway Maintenance and Mass Transit Fund no later than the last day of the same month in which the certification was made by the Commissioner.

§ 58.1-2289. (Contingent effective date - see Editor's notes) Disposition of tax revenue generally.

A. Unless otherwise provided in this section, all taxes and fees, including civil penalties, collected by the Commissioner pursuant to this chapter, less a reasonable amount to be allocated for refunds, shall be promptly paid into the state treasury and shall constitute special funds within the Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds shall accrue to these funds. Except as provided in § 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 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

1165 Department of Rail and Public Transportation, the Department of Aviation, the Virginia Port Authority,
1166 and the Department of Motor Vehicles as may be provided by law.

1167 The Governor is hereby authorized to transfer out of such fund an amount necessary for the
1168 inspection of gasoline and motor grease measuring and distributing equipment, and for the inspection
1169 and analysis of gasoline for purity.

1170 B. ~~The~~ *Except as provided in subsection F, the* tax collected on each gallon of aviation fuel sold and
1171 delivered or used in this Commonwealth, less refunds, shall be paid into a special fund of the state
1172 treasury. Proceeds of this special fund within the Commonwealth Transportation Fund shall be disbursed
1173 upon order of the Department of Aviation, on warrants of the Comptroller, to defray the cost of the
1174 administration of the laws of this Commonwealth relating to aviation, for the construction, maintenance
1175 and improvement of airports and landing fields to which the public now has or which it is proposed
1176 shall have access, and for the promotion of aviation in the interest of operators and the public generally.

1177 C. One-half cent of the tax collected on each gallon of fuel on which ~~the~~ *a* refund has been paid at
1178 ~~the rate of seventeen cents per gallon, or in the case of diesel fuel, fifteen and one-half cents per gallon~~
1179 *for gasoline, gasohol, diesel fuel, blended fuel, or alternative fuel*, for fuel consumed in tractors and
1180 unlicensed equipment used for agricultural purposes shall be paid into a special fund of the state
1181 treasury, known as the Virginia Agricultural Foundation Fund, to be disbursed to make certain refunds
1182 and defray the costs of the research and educational phases of the agricultural program, including
1183 supplemental salary payments to certain employees at Virginia Polytechnic Institute and State University,
1184 the Department of Agriculture and Consumer Services and the Virginia Truck and Ornamentals Research
1185 Station, including reasonable expenses of the Virginia Agricultural Council.

1186 D. One and one-half cents of the tax collected on each gallon of fuel used to propel a commercial
1187 watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of
1188 the state treasury to be made available to the Board of Game and Inland Fisheries until expended for the
1189 purposes provided generally in subsection C of § 29.1-701, including acquisition, construction,
1190 improvement and maintenance of public boating access areas on the public waters of this
1191 Commonwealth and for other activities and purposes of direct benefit and interest to the boating public
1192 and for no other purpose. However, one and one-half cents per gallon on fuel used by commercial
1193 fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be
1194 used for the construction, repair, improvement and maintenance of the public docks of this
1195 Commonwealth used by said commercial watercraft. Any expenditures for the acquisition, construction,
1196 improvement and maintenance of the public docks shall be made according to a plan developed by the
1197 Virginia Marine Resources Commission.

1198 From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for
1199 the propelling of watercraft, after deduction for lawful refunds *and after deduction for the revenues*
1200 *deposited into the Supplemental Highway Maintenance and Mass Transit Fund established under*
1201 *§ 33.1-23.5:3 pursuant to subsection F*, there shall be paid into the state treasury for use by the Marine
1202 Resources Commission, the Virginia Soil and Water Conservation Board, the State Water Control Board,
1203 and the Commonwealth Transportation Board to (i) improve the public docks as specified in this section,
1204 (ii) improve commercial and sports fisheries in Virginia's tidal waters, (iii) make environmental
1205 improvements including, without limitation, fisheries management and habitat enhancement in the
1206 Chesapeake and its tributaries, and (iv) further the purposes set forth in § 33.1-223, a sum as established
1207 by the General Assembly.

1208 E. Notwithstanding other provisions of this section, there shall be transferred from moneys collected
1209 pursuant to this section to a special fund within the Commonwealth Transportation Fund in the state
1210 treasury, to be used to meet the necessary expenses of the Department of Motor Vehicles, an amount
1211 equal to one percent of a sum to be calculated as follows: the tax revenues collected pursuant to this
1212 chapter, at the tax rates in effect on December 31, 1986, less refunds authorized by this chapter and less
1213 taxes collected for aviation fuels.

1214 F. *The additional revenues (less any additional refunds authorized and the direct costs of*
1215 *administration by the Department in collecting such additional revenues) generated by increases in the*
1216 *rates of taxes under this chapter pursuant to enactments of the 2008 Special Session II of the Virginia*
1217 *General Assembly shall be collected pursuant to Article 4 (§ 58.1-2230 et seq.) of this chapter and*
1218 *deposited into the Supplemental Highway Maintenance and Mass Transit Fund established under*
1219 *§ 33.1-23.5:3.*

1220 *For purposes of such deposits, the Commissioner shall provide a monthly certification to the*
1221 *Comptroller reporting the net revenues generated by such increases in the most recently ended month*
1222 *for which such net revenues have been collected. As part of such certification, the Commissioner shall*
1223 *apportion such net revenues to each county and city of the Commonwealth using the same proportionate*
1224 *shares that the Tax Commissioner used in attributing sales and use tax revenues for the respective*
1225 *month pursuant to subsection G of § 58.1-638.*

1226 *The monthly certification shall be provided to the Comptroller no later than the twenty-fifth of each*

month. The Comptroller shall deposit an amount equal to each month's net revenues (as reported in the Commissioner's certification) into the Supplemental Highway Maintenance and Mass Transit Fund no later than the last day of the same month in which the certification was made by the Commissioner.

§ 58.1-2402. Levy.

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

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

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

1. Three *and one-half* percent of the sale price of each motor vehicle sold in Virginia. If such motor vehicle is a manufactured home as defined in § 36-85.3, the tax shall be three percent of the sale price of each such manufactured home sold in this Commonwealth; if such vehicle is a mobile office as defined in § 58.1-2401, the tax shall be two percent of the sale price of each mobile office sold in this Commonwealth.

2. Three *and one-half* percent of the sale price of each motor vehicle, or three percent of the sale price of each manufactured home as defined in § 36-85.3, or two percent of the sale price of each mobile office as defined in § 58.1-2401, not sold in Virginia but used or stored for use in this Commonwealth. When any such motor vehicle or manufactured home is first used or stored for use in Virginia six months or more after its acquisition, the tax shall be based on its current market value.

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

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

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

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

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

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

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

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

§ 58.1-2403. Exemptions.

No tax shall be imposed as provided in § 58.1-2402 ~~or 58.1-2402.1~~ if the vehicle is:

1. Sold to, rented or used by the United States government or any governmental agency thereof;
2. Sold to, rented or used by the Commonwealth of Virginia or any political subdivision thereof;
3. Registered in the name of a volunteer fire department or rescue squad not operated for profit;

- 1288 4. Registered to any member of the Mattaponi, Pamunkey, or Chickahominy Indian tribes or any
1289 other recognized Indian tribe of the Commonwealth living on the tribal reservation;
- 1290 5. Transferred incidental to repossession under a recorded lien and ownership is transferred to the
1291 lienholder;
- 1292 6. A manufactured home permanently attached to real estate and included in the sale of real estate;
- 1293 7. A gift to the spouse, son, or daughter of the transferor. With the exception of a gift to a spouse,
1294 this exemption shall not apply to any unpaid obligation assumed by the transferee incidental to the
1295 transfer;
- 1296 8. Transferred from an individual or partnership to a corporation or limited liability company or from
1297 a corporation or limited liability company to an individual or partnership if the transfer is incidental to
1298 the formation, organization or dissolution of a corporation or limited liability company in which the
1299 individual or partnership holds the majority interest;
- 1300 9. Transferred from a wholly owned subsidiary to the parent corporation or from the parent
1301 corporation to a wholly owned subsidiary;
- 1302 10. Being registered for the first time in this Commonwealth and the applicant holds a valid,
1303 assignable title or registration issued to him by another state or a branch of the United States Armed
1304 Forces and (i) has owned the vehicle for longer than 12 months or (ii) has owned the vehicle for less
1305 than 12 months and provides evidence of a sales tax paid to another state. However, when a vehicle has
1306 been purchased by the applicant within the last 12 months and the applicant is unable to provide
1307 evidence of a sales tax paid to another state, the applicant shall pay the Virginia sales tax based on the
1308 fair market value of the vehicle at the time of registration in Virginia;
- 1309 11. a. Titled in a Virginia or non-Virginia motor vehicle dealer's name for resale; or
1310 b. Titled in the name of an automotive manufacturer having its headquarters in Virginia, except for
1311 any commercially leased vehicle that is not described under subdivision 3 of § 46.2-602.2. For purposes
1312 of this subdivision, "automotive manufacturer" and "headquarters" means the same as such terms are
1313 defined in § 46.2-602.2;
- 1314 12. A motor vehicle having seats for more than seven passengers and sold to an urban or suburban
1315 bus line the majority of whose passengers use the buses for traveling a distance of less than 40 miles,
1316 one way, on the same day;
- 1317 13. Purchased in the Commonwealth by a nonresident and a Virginia title is issued for the sole
1318 purpose of recording a lien against the vehicle if the vehicle will be registered in a state other than
1319 Virginia;
- 1320 14. A motor vehicle designed for the transportation of 10 or more passengers, purchased by and for
1321 the use of a church conducted not for profit;
- 1322 15. Loaned or leased to a private nonprofit institution of learning, for the sole purpose of use in the
1323 instruction of driver's education when such education is a part of such school's curriculum for full-time
1324 students;
- 1325 16. Sold to an insurance company or local government group self-insurance pool, created pursuant to
1326 § 15.2-2703, for the sole purpose of disposition when such company has paid the registered owner of
1327 such vehicle a total loss claim;
- 1328 17. Owned and used for personal or official purposes by accredited consular or diplomatic officers of
1329 foreign governments, their employees or agents, and members of their families, if such persons are
1330 nationals of the state by which they are appointed and are not citizens of the United States;
- 1331 18. A self-contained mobile computerized axial tomography scanner sold to, rented or used by a
1332 nonprofit hospital or a cooperative hospital service organization as described in § 501 (e) of the United
1333 States Internal Revenue Code;
- 1334 19. A motor vehicle having seats for more than seven passengers and sold to a restricted common
1335 carrier or common carrier of passengers;
- 1336 20. Beginning July 1, 1989, a self-contained mobile unit designed exclusively for human diagnostic
1337 or therapeutic service, sold to, rented to, or used by a nonprofit hospital, or a cooperative hospital
1338 service organization as described in § 501 (e) of the United States Internal Revenue Code, or a nonprofit
1339 corporation as defined in § 501 (c) (3) of the Internal Revenue Code, established for research in,
1340 diagnosis of, or therapy for human ailments;
- 1341 21. Transferred, as a gift or through a sale to an organization exempt from taxation under § 501 (c)
1342 (3) of the Internal Revenue Code, provided the motor vehicle is not titled and tagged for use by such
1343 organization;
- 1344 22. A motor vehicle sold to an organization which is exempt from taxation under § 501 (c) (3) of the
1345 Internal Revenue Code and which is organized for the primary purpose of distributing food, clothing,
1346 medicines and other necessities of life to, and providing shelter for, needy persons in the United States
1347 and throughout the world;
- 1348 23. A truck, tractor truck, trailer, or semitrailer, as severally defined in § 46.2-100, except trailers and
1349 semitrailers not designed or used to carry property and vehicles registered under § 46.2-700, with a gross

vehicle weight rating or gross combination weight rating of 26,001 pounds or more, in which case no tax shall be imposed pursuant to subdivisions 1 and 3 of subsection A of § 58.1-2402;

24. Transferred to the trustees of a revocable inter vivos trust, when the individual titleholder of a Virginia titled motor vehicle and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries of the trust may also be named in the trust instrument, when no consideration has passed between the titleholder and the beneficiaries; and transferred to the original titleholder from the trustees holding title to the motor vehicle;

25. Transferred to trustees of a revocable inter vivos trust, when the owners of the vehicle and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust instrument, or transferred by trustees of such a trust to beneficiaries of the trust following the death of the grantor, when no consideration has passed between the grantor and the beneficiaries in either case;

26. Sold by a vehicle's lessor to its lessee upon the expiration of the term of the vehicle's lease, if the lessee is a natural person and this natural person has paid the tax levied pursuant to this chapter with respect to the vehicle when he leased it from the lessor, and if the lessee presents an original copy of the lease upon request of the Department of Motor Vehicles or other evidence that the sales tax has been paid to the Commonwealth by the lessee purchasing the vehicle; or

27. Titled in the name of a deceased person and transferred to the spouse or heir, or under the will, of such deceased person.

§ 58.1-2425. Disposition of revenues.

A. ~~Except as provided in § 58.1-2402.1 funds~~ Funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury. Except as otherwise provided in ~~§ 58.1-2402.1 and 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)~~ *clauses (iii) and (vi)* 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) all additional revenues generated from increases in the rates of taxes under this chapter (net of the applicable portion of any refunds and the direct costs of administration by the Department in collecting such additional revenues) pursuant to enactments of the 2008 Special Session II of the Virginia General Assembly shall be deposited into the Supplemental Highway Maintenance and Mass Transit Fund established under § 33.1-23.5:3.*

B. *For purposes of the deposits under clause (vi) of subsection A, the Commissioner shall provide a monthly certification to the Comptroller reporting the net revenues generated in the preceding month from the 0.50 percent increase in the rates of taxes under § 58.1-2402. The certification shall also apportion such net revenues to each county and city of the Commonwealth using the same proportionate shares that the Tax Commissioner used in attributing sales and use tax revenues for the respective month pursuant to subsection G of § 58.1-638.*

The monthly certification shall be provided to the Comptroller no later than the twenty-fifth of each month. The Comptroller shall deposit an amount equal to each month's net revenues (as reported in the Commissioner's certification) into the Supplemental Highway Maintenance and Mass Transit Fund no later than the last day of the same month in which the certification was made by the Commissioner.

B C. As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation

1411 Trust Fund pursuant to clause (iii) of subsection A of this section, an aggregate of 4.2 percent shall be
1412 set aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the
1413 Commonwealth Airport Fund; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7
1414 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit
1415 Fund.

1416 § 58.1-2701. (Contingent expiration date - see Editor's notes) Amount of tax.

1417 A. Except as provided in subsection B, every motor carrier shall pay a road tax *at a rate per gallon*
1418 equivalent to ~~\$0.24~~ *three and one-half cents* per gallon *greater than the total tax imposed on each*
1419 *gallon of diesel fuel under subsection B of § 58.1-2217* calculated on the amount of motor fuel, diesel
1420 fuel or liquefied gases (which would not exist as liquids at a temperature of sixty degrees Fahrenheit
1421 and a pressure of 14.7 pounds per square inch absolute), used in its operations within the
1422 Commonwealth.

1423 The tax imposed by this chapter shall be in addition to all other taxes of whatever character imposed
1424 on a motor carrier by any other provision of law.

1425 B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles
1426 that are not registered under the International Registration Plan shall pay a fee of ~~\$150~~ \$200 per year
1427 for each qualified highway vehicle. The fee is due and payable when the vehicle registration fees are
1428 paid pursuant to the provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2.

1429 If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due
1430 at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration
1431 expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the
1432 registration fee paid is authorized by law.

1433 C. All taxes and fees paid under the provisions of this chapter shall be credited to the Highway
1434 Maintenance and Operating Fund, a special fund within the Commonwealth Transportation Fund.

1435 § 58.1-2701. (Contingent effective date - see Editor's notes) Amount of tax.

1436 A. Except as provided in subsection B, every motor carrier shall pay a road tax *at a rate per gallon*
1437 equivalent to ~~nineteen and one-half cents~~ *three and one-half cents* per gallon *greater than the total tax*
1438 *imposed on each gallon of diesel fuel under subsection B of § 58.1-2217* calculated on the amount of
1439 motor fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of sixty
1440 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute), used in its operations within
1441 the Commonwealth.

1442 The tax imposed by this chapter shall be in addition to all other taxes of whatever character imposed
1443 on a motor carrier by any other provision of law.

1444 B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles
1445 that are not registered under the International Registration Plan shall pay a fee of ~~\$100~~ \$150 per year
1446 for each qualified highway vehicle. The fee is due and payable when the vehicle registration fees are
1447 paid pursuant to the provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2.

1448 If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due
1449 at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration
1450 expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the
1451 registration fee paid is authorized by law.

1452 C. All taxes and fees paid under the provisions of this chapter shall be credited to the Highway
1453 Maintenance and Operating Fund, a special fund within the Commonwealth Transportation Fund.

1454 § 58.1-2706. Credit for payment of motor fuel, diesel fuel or liquefied gases tax.

1455 A. Every motor carrier subject to the road tax shall be entitled to a credit on such tax *at a rate per*
1456 *gallon* equivalent to ~~seventeen and one-half cents~~ *per gallon the total tax imposed on each gallon of*
1457 *diesel fuel under subsection B of § 58.1-2217* on all motor fuel, diesel fuel and liquefied gases
1458 purchased by such carrier within the Commonwealth for use in its operations either within or without
1459 the Commonwealth and upon which the motor fuel, diesel fuel or liquefied gases tax imposed by the
1460 laws of the Commonwealth has been paid by such carrier. Evidence of the payment of such tax in such
1461 form as may be required by, or is satisfactory to, the Department shall be furnished by each carrier
1462 claiming the credit herein allowed.

1463 B. When the amount of the credit to which any motor carrier is entitled for any quarter exceeds the
1464 amount of the tax for which such carrier is liable for the same quarter, the excess may: (i) be allowed as
1465 a credit on the tax for which such carrier would be otherwise liable for any of the eight succeeding
1466 quarters or (ii) be refunded, upon application, duly verified and presented and supported by such
1467 evidence as may be satisfactory to the Department.

1468 C. The Department may allow a refund upon receipt of proper application and review. It shall be at
1469 the discretion of the Department to determine whether an audit is required.

1470 D. The refund may be allowed without a formal hearing if the amount of refund is agreed to by the
1471 applicant. Otherwise, a formal hearing on the application shall be held by the Department after notice of
1472 not less than ten days to the applicant and the Attorney General.

1473 E. Whenever any refund is ordered it shall be paid out of the Highway Maintenance and
1474 ~~Construction~~ *Operating* Fund.

1475 F. Whenever a person operating under lease to a motor carrier to perform transport services on
1476 behalf of the carrier purchases motor fuel, diesel fuel or liquefied gases relating to such services, such
1477 payments or purchases may, at the discretion of the Department, be considered payment or purchases by
1478 the carrier.

1479 3. That the revenues generated by the provisions of this act shall not be used to calculate or
1480 reduce the share of local, federal, and state revenues otherwise available to participating
1481 jurisdictions. Further, such revenues and moneys shall not be included in any computation of, or
1482 formula for, a locality's ability to pay for public education, upon which appropriations of state
1483 revenues to local governments for public education are determined.

1484 4. That the Director of the Department of Planning and Budget is hereby authorized to adjust
1485 transportation appropriations under current law, as needed, to effectuate the provisions of this act.

1486 5. That the General Assembly hereby appropriates (i) the net revenues generated and collected by
1487 the increases in the rates of fees or taxes in §§ 58.1-603, 58.1-604, 58.1-604.1, 58.1-614, 58.1-2217,
1488 58.1-2249, and 58.1-2402 pursuant to the provisions of this act in accordance with and for the
1489 purposes set forth in § 33.1-23.5:3, (ii) the net revenues generated and collected by the increases in
1490 the rates of fees or taxes in § 58.1-2701 pursuant to the provisions of this act to the Highway
1491 Maintenance and Operating Fund, and (iii) the net revenues generated and collected by the
1492 increase in the rate of tax under § 58.1-802 and by the new taxes under §§ 58.1-603.1 and
1493 58.1-639.1 pursuant to the provisions of this act in accordance with and for the purposes set forth
1494 in § 15.2-4841.

1495 6. That §§ 46.2-755.1, 46.2-755.2, 46.2-1167.1, 58.1-625.1, 58.1-802.1, 58.1-2402.1, and 58.1-3825.1 of
1496 the Code of Virginia are repealed.

1497 7. That the thirteenth and eighteenth enactment clauses of Chapter 896 of the Acts of Assembly of
1498 2007 are repealed.

1499 8. That should any portion of this act be held unconstitutional by a court of competent
1500 jurisdiction, the remaining portions of this act shall remain in effect.