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## SENATE BILL NO. 6010

Offered June 23, 2008

A *BILL to amend and reenact §§ 2.2-203.1, 2.2-203.2, 15.2-4838, 15.2-4838.1, 15.2-4840, 30-284, 33.1-23.03, 33.1-23.03:1, 33.1-23.03:2, 33.1-23.03:8, 33.1-268, 33.1-269, 33.1-277, 33.1-391.5, 58.1-608.3, 58.1-611.1, 58.1-612, 58.1-639, 58.1-802, 58.1-811, 58.1-815, 58.1-815.1, 58.1-816.1, 58.1-1724.3, 58.1-1724.6, 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, 58.1-2706, and 58.1-3221.3 of the Code of Virginia, and to amend and reenact the fifth and sixteenth enactments of Chapter 896 of the Acts of Assembly of 2007; to amend the Code of Virginia by adding in Article 1 of Chapter 1 of Title 2.2 a section numbered 2.2-126.1, by adding in Chapter 48.2 of Title 15.2 a section numbered 15.2-4841, by adding sections numbered 33.1-23.03:2.1, 33.1-23.03:11, 33.1-23.1:01, 33.1-23.4:02, 58.1-603.1, 58.1-603.2, and 58.1-603.3, by adding in Title 33.1 a Chapter numbered 10.3, consisting of sections numbered 33.1-391.16, 33.1-391.17, and 33.1-391.18, and by adding in Title 58.1 a chapter numbered 6.01, consisting of sections numbered 58.1-639.1 and 58.1-639.2; to repeal §§ 2.2-2817.1, 46.2-755.1, 46.2-755.2, 46.2-1167.1, 58.1-625.1, 58.1-802.1, 58.1-1724.7, 58.1-2402.1, and 58.1-3825.1 of the Code of Virginia, to repeal Chapter 10.2 (§§ 33.1-391.6 through 33.1-391.15) of Title 33.1 and Article 22 (§§ 58.1-540 through 58.1-549) of Chapter 3 of Title 58.1, and to repeal the sixth, thirteenth, fourteenth, fifteenth, eighteenth, and nineteenth enactments of Chapter 896 of the Acts of Assembly of 2007, relating to transportation funding and administration, including taxes and fees for transportation funding.*

Patron—Colgan

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 §§ 2.2-203.1, 2.2-203.2, 15.2-4838, 15.2-4838.1, 15.2-4840, 30-284, 33.1-23.03, 33.1-23.03:1, 33.1-23.03:2, 33.1-23.03:8, 33.1-268, 33.1-269, 33.1-277, 33.1-391.5, 58.1-608.3, 58.1-611.1, 58.1-612, 58.1-639, 58.1-802, 58.1-811, 58.1-815, 58.1-815.1, 58.1-816.1, 58.1-1724.3, 58.1-1724.6, 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, 58.1-2706, and 58.1-3221.3 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Article 1 of Chapter 1 of Title 2.2 a section numbered 2.2-126.1, by adding in Chapter 48.2 of Title 15.2 a section numbered 15.2-4841, by adding sections numbered 33.1-23.03:2.1, 33.1-23.03:11, 33.1-23.1:01, 33.1-23.4:02, 58.1-603.1, 58.1-603.2, and 58.1-603.3, by adding in Title 33.1 a Chapter numbered 10.3, consisting of sections numbered 33.1-391.16, 33.1-391.17, and 33.1-391.18, and by adding in Title 58.1 a chapter numbered 6.01, consisting of sections numbered 58.1-639.1 and 58.1-639.2, as follows:

§ 2.2-126.1. Governor to report to General Assembly on implementation of the Commuter Reduction Program.

The Governor shall report annually to the General Assembly on efforts to reduce the vehicle miles traveled by state employees commuting to work, including quantifying the total reduction in vehicle miles traveled resulting from implementation of the Commuter Reduction Program established pursuant to § 2.2-203.1 and administered by the Secretary of Administration.

§ 2.2-203.1. Secretary to establish and administer the Commuter Reduction Program for state employees.

A. As used in this section:

"Alternate work locations" means approved locations other than the employee's central workplace where official state business is performed. Such locations may include, but not be limited to the home of an employee and satellite offices.

"Alternative work schedule" means schedules that differ from the standard workweek, 40-hour

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workweek schedule, if such schedules are deemed to promote efficient agency operations. Alternative work schedules may include, but not be limited to, four 10-hour days, rotational shifts, and large-scale job sharing.

"Bike and Pedestrian Commuter Services" means any program or service offered by a state agency to eliminate or reduce motorized vehicles from an employee's commute to his central workplace.

"Central workplace" means an employer's place of work where employees normally are located.

"Public transportation" means any form of public transportation utilizing shared vehicles.

"Ridesharing" means both commercial and noncommercial arrangements where two or more employees share one vehicle to travel from their homes to their central workplaces.

"Telecommuting" means a work arrangement in which supervisors direct or permit employees to perform their usual job duties away from their central workplace at least one day per week and in accordance with work agreements.

"Work agreement" means a written agreement between the employer and employee that details the terms and conditions of an employee's work away from his central workplace.

B. The Secretary, in cooperation with the Governor, Secretary of Technology, and Secretary of Transportation and in consultation with the Council on Technology Services, shall establish a comprehensive statewide Commuter Reduction Program for state employees with a goal of reducing total vehicle miles traveled by state employees commuting to their central workplace by not less than 20 percent by 2012. In establishing the Commuter Reduction Program, the Secretary shall establish guidelines, rules, and procedures to incentivize state agencies and state employees to facilitate voluntary participation in the following types of programs:

1. Alternative work schedules;

2. Telecommuting;

3. Ridesharing;

4. Public transportation; and

5. Bike and pedestrian commuter services.

telecommuting and alternative work schedule policy under which eligible employees of state agencies, as determined by state agencies, may telecommute or participate in alternative work schedules, and the The Secretary shall periodically monitor and update the guidelines, rules, and procedures comprising the Commuter Reduction Program such policy as necessary.

BC. The telecommuting and alternative work schedule policy described in subsection A shall include, but not be limited to, model guidelines, rules and procedures for telecommuting and participation in alternative work schedules, and identification of the broad categories of positions determined to be ineligible to participate in telecommuting and the justification for such a determination. Such policy may also include an incentive program, to be established and administered by the Department of Human Resources Management, that may encourage state employees to telecommute or participate in alternative work schedules and that may encourage the state agencies' management personnel to promote telecommuting and alternative work schedules for eligible employees.

As part of the Commuter Reduction Program, state agencies shall establish telecommuting and alternative work schedule policies under which eligible employees of state agencies, as determined by state agencies, may telecommute, participate in alternative work schedules, or both, to the maximum extent possible without diminished employee performance or service delivery. The policies shall identify types of employees eligible for telecommuting and alternative work schedules, the broad categories of positions determined to be ineligible for telecommuting and the justification therefore, any benefits of telecommuting including the use of alternate work locations that are separate from the agency's central workplace, and any benefits of using alternative work schedules. Such policy may also include an incentive program, to be established and administered by the Department of Human Resources Management, that may encourage state employees to telecommute or participate in alternative work schedules and that may encourage the state agencies' management personnel to promote telecommuting and alternative work schedules for eligible employees.

The policy shall promote use of Commonwealth information technology assets where feasible but may allow for eligible employees to use computers, computing devices, or related electronic equipment not owned or leased by the Commonwealth to telecommute, if such use is technically and economically practical, and so long as such use meets information security standards as established by the Virginia Information Technologies Agency, or receives an exception from such standards approved by the CIO of the Commonwealth or his designee. The policy shall be updated periodically as necessary.

D. The head of each agency shall set annual percentage targets for the number of positions eligible for alternative work schedules. By July 1, 2009, each state agency shall have a goal of not less than 25 percent of its eligible workforce participating in alternative work schedules. By January 1, 2010, each state agency, except the Department of State Police, shall have a goal of not less than 20 percent of its eligible workforce telecommuting.

E. The head of each state agency shall annually report to the Secretary of Administration or his

designee on the status and efficiency of telecommuting and participation in alternative work schedules, including specific budget requests for information technology, software, telecommunications connectivity (i.e., broadband Internet access, additional telephone lines, and online collaborative tools), or other equipment or services needed to increase opportunities for telecommuting and participation in alternate work locations.

§ 2.2-203.2. Secretary to advise and assist public and private sectors regarding implementation of the Commuter Reduction Program; report to the General Assembly.

A. The Secretary, in conjunction with the Department of Rail and Public Transportation, shall advise and assist state agencies, and upon request, ~~of the localities, the Secretary~~ may advise and assist localities in planning, developing and administering programs, projects, plans, policies, incentives and other activities to promote implementation of the Commuter Reduction Program. ~~telecommuting by employees of state agencies or localities.~~

B. The Secretary, in conjunction with the Department of Rail and Public Transportation ~~upon request,~~ may advise and assist private sector employers in the Commonwealth in planning, developing and administering programs, projects, plans, policies, incentives and other activities included in the Commuter Reduction Program ~~for telecommuting by private sector employees and in developing incentives provided by the private sector to assist~~ encourage private sector employers in the Commonwealth in reducing the number of vehicle miles traveled by private sector employees commuting to a central workplace. ~~to utilize employee telecommuting.~~

C. The Secretary, in conjunction with the Governor, shall report annually to the General Assembly on the efforts to reduce the vehicle miles traveled by state employees commuting to a central workplace, including any assistance provided to localities or the private sector status and efficiency of telecommuting in the Commonwealth.

§ 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 Revenue Fund pursuant to subsection D of § 58.1-604.5 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 Arlington the first 50% shall be used solely for urban or secondary road construction and improvements and for public transportation purposes, and (ii) in the remaining localities, the first 50% shall be used solely for urban or secondary road construction and improvements. The remainder, as determined solely by the applicable locality, shall be used either for additional urban or secondary road construction; for, other transportation capital improvements which that have been approved by in the most recent long range transportation plan adopted by the Authority; or for, and public transportation purposes that have been approved in the most recent long range transportation plan adopted by the Authority. Solely for purposes of calculating the 40% of revenues to be distributed pursuant to this subsection, the revenue generated pursuant to § 58.1-3221.3 and Article 8 (§ 15.2-2317 et seq.) of Chapter 22 of this title by the counties and cities embraced by the Authority The net revenues deposited into the Northern Virginia Transportation Authority Revenue Fund established under § 15.2-4841 shall be considered revenue of the Authority.

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

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

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

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

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

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

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

3. All revenues deposited to the credit of the Authority shall be used for projects benefiting the localities embraced by the Authority; ~~with each locality's total long-term benefits being approximately equal to the total of the fees and taxes received by the Authority that are generated by or attributable to the locality divided by the total of such fees and taxes received by the Authority that achieve the goals established pursuant to the fifth enactment of Chapter 896 of the Acts of Assembly of 2007, as may be amended. The long-range plan adopted pursuant to § 15.2-4840 shall ensure that the total long-term benefits for each county and city embraced by the Authority shall be approximately equal to the total long-term estimate of the revenues to be received by the Authority from the taxes under §§ 58.1-603.1, 58.1-639.1, and 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 pursuant to §§ 58.1-603.1, 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 Northern Virginia Transportation Authority Revenue 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 or transit operating costs in Northern Virginia, and not in lieu of the same. Such other allocations shall not be computed or determined or administered in any manner that takes into consideration any moneys deposited in the Northern Virginia Transportation Authority Revenue Fund.*

*§ 30-284. Powers and duties of Commission.*

The Commission shall have the following powers and duties:

1. To make performance reviews of operations of state agencies with transportation responsibilities to ascertain that sums appropriated have been or are being expended for the purposes for which they were made and to evaluate the effectiveness of programs in accomplishing legislative intent;

2. To study, on a continuing basis, the operations, practices, and duties of state agencies with transportation responsibilities as they relate to efficiency in the use of space, personnel, equipment, and facilities;

3. To study and evaluate potential future revenue sources to replace existing sources of revenue for the transportation needs of the Commonwealth, including but not limited to the evaluation of a program that would generate revenue through charges assessed based on vehicle miles traveled in the Commonwealth. In conducting such studies and analysis, the Commission may enlist the support of the

305 *Virginia Tech Transportation Institute and the University of Virginia Center for Transportation Studies;*  
306 4. To retain such consultants and advisers as the Commission deems necessary to evaluate financial  
307 and project management of state agencies with transportation responsibilities; and

308 45. To make such special studies of and reports on the operations and functions of state agencies  
309 with transportation responsibilities as it deems appropriate and as may be requested by the General  
310 Assembly.

311 § 33.1-23.03. Board to develop and update Statewide Transportation Plan.

312 The Commonwealth Transportation Board shall conduct a comprehensive review of statewide  
313 transportation needs in a Statewide Transportation Plan setting forth an inventory of all construction  
314 needs for all systems, and based upon this inventory, establishing goals, objectives, and priorities  
315 covering a twenty-year planning horizon, in accordance with federal transportation planning  
316 requirements. This plan shall embrace all modes of transportation and include technological initiatives.  
317 This Statewide Transportation Plan shall be updated as needed, but no less than once every five years.  
318 The plan shall promote economic development and all transportation modes, intermodal connectivity,  
319 environmental quality, accessibility for people and freight, and transportation safety. The plan shall  
320 include quantifiable measures and achievable goals relating to, but not limited to, congestion reduction  
321 and safety, transit and high-occupancy vehicle facility use, job-to-housing ratios, job and housing access  
322 to transit and pedestrian facilities, air quality, and per capita vehicle miles traveled. The Board shall  
323 consider such goals in evaluating and selecting transportation improvement projects. The plan shall  
324 incorporate the approved long-range plans' measures and goals developed by the Northern Virginia  
325 Transportation Authority and the Hampton Roads ~~Transportation Authority~~ *Metropolitan Planning*  
326 *Organization*. Each such plan shall be summarized in a public document and made available to the  
327 general public upon presentation to the Governor and General Assembly.

328 It is the intent of the General Assembly that this plan assess transportation needs and assign priorities  
329 to projects on a statewide basis, avoiding the production of a plan which is an aggregation of local,  
330 district, regional, or modal plans.

331 § 33.1-23.03:1. Transportation Trust Fund.

332 There is hereby created in the Department of the Treasury a special nonreverting fund to be known  
333 as the Transportation Trust Fund, consisting of:

334 1. Funds remaining for highway construction purposes, among the several highway systems pursuant  
335 to § 33.1-23.1.

336 2. [Repealed.]

337 3. The additional revenues generated by enactments of Chapters 11, 12 and 15 of the Acts of  
338 Assembly, 1986 Special Session, and designated for this fund.

339 4. Tolls and other revenues derived from the projects financed or refinanced pursuant to this title  
340 which are payable into the state treasury and tolls and other revenues derived from other transportation  
341 projects, which may include upon the request of the applicable appointed governing body, as soon as  
342 their obligations have been satisfied, such tolls and revenue derived for transportation projects pursuant  
343 to § 33.1-253 (Chesapeake Bay Bridge and Tunnel District) and § 33.1-320 (Richmond Metropolitan  
344 Authority) or if the appointed governing body requests refunding or advanced refunding by the Board  
345 and such refunding or advanced refunding is approved by the General Assembly. Such funds shall be  
346 held in separate subaccounts of the Transportation Trust Fund to the extent required by law or the  
347 Board.

348 5. Tolls and other revenues derived from the Richmond-Petersburg Turnpike, provided that such  
349 funds shall be held in a separate subaccount of the Transportation Trust Fund and allocated as set forth  
350 in Chapter 574 of the Acts of Assembly of 1983 until expiration of that Act.

351 6. Such other funds as may be appropriated by the General Assembly from time to time, and  
352 designated for this fund.

353 7. All interest, dividends and appreciation which may accrue to the Transportation Trust Fund and  
354 the Highway Maintenance and Construction Fund, except that interest on funds becoming part of the  
355 Transportation Trust Fund under subdivision 1 and the Highway Maintenance and Construction Fund  
356 shall not become part of the Transportation Trust Fund until July 1, 1988.

357 8. All amounts required by contract to be paid over to the Transportation Trust Fund.

358 9. Concession payments paid to the Commonwealth by a private entity pursuant to the Public-Private  
359 Transportation Act of 1995 (§ 56-556 et seq.).

360 10. *Revenues in the Commonwealth Transportation Future Fund established under § 33.1-23.1:01*  
361 *and designated for this fund.*

362 § 33.1-23.03:2. Commonwealth Port Fund, Commonwealth Airport Fund and Commonwealth Mass  
363 Transit Fund.

364 A. Of the funds becoming part of the Transportation Trust Fund pursuant to subdivision 3 of  
365 § 33.1-23.03:1, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund; an  
366 aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund; and an aggregate of 14.5

percent in fiscal year 1998-1999 and 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit Fund. The remaining 78.9 percent of the funds deposited into or held in the Transportation Trust Fund in fiscal year 1998-1999, and 78.7 percent of the funds deposited into or held in the Transportation Trust Fund in fiscal year 1999-2000 and thereafter, pursuant to subdivision 3 of § 33.1-23.03:1, together with funds deposited pursuant to subdivisions 1 and 6 of § 33.1-23.03:1, shall be expended for capital improvements including construction, reconstruction, maintenance, and improvements of highways according to the provisions of *subsection B* of § 33.1-23.1 or to secure bonds issued for such purposes, as provided by the Board and the General Assembly.

*B. Of the funds becoming part of the Transportation Trust Fund pursuant to subdivision 10 of § 33.1-23.03:1, an aggregate of 4.2 percent shall be set aside for the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside for the Commonwealth Airport Fund; and the remaining 93.4 percent shall be expended for capital improvements including construction, reconstruction, maintenance, and improvements of highways according to the provisions of subsection B of § 33.1-23.1 or to secure bonds issued for such purposes, as provided by the Board and the General Assembly.*

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

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

1. A portion of the moneys actually collected, including penalty and interest, attributable to any increase in revenues from the taxes imposed under Chapter 22 (§ 58.1-2200 et seq.) of Title 58.1, with such increase being calculated as the difference between such tax revenues collected in the manner prescribed under Chapter 22 less such tax revenues that would have been collected using the prescribed manner in effect immediately before the effective date of Chapter 22, computed without regard to increases in the rates of taxes under Chapter 22 pursuant to enactments of the 2007 Session of the General Assembly. The portion to be deposited to the Fund shall be the moneys actually collected from such increase in revenues and allocated for highway and mass transit improvement projects as set forth in *subsection A* of § 33.1-23.03:2, but not including any amounts that are allocated to the Commonwealth Port Fund and the Commonwealth Airport Fund under such section. There shall also be deposited into the Fund all additional federal revenues attributable to Chapter 22 (§ 58.1-2200 et seq.) of Title 58.1;

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

3. All revenues deposited into the Fund pursuant to § 58.1-2531; and

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

All moneys in the Fund shall first be used for debt service payments on bonds or obligations for which the Fund is expressly required for making debt service payments, to the extent needed. The Fund shall be considered a part of the Transportation Trust Fund. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes enumerated in subsection B of this section. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller.

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

C. Notwithstanding any other provision of this section, beginning July 1, 2007, no bonds, obligations, or other evidences of debt (the bonds) that expressly require as a source for debt service payments or for the repayment of such bonds the revenues of the Fund, shall be issued or entered into unless at the time of the issuance the revenues then in the Fund or reasonably anticipated to be deposited into the

428 Fund pursuant to the law then in effect are by themselves sufficient to make 100% of the contractually  
429 required debt service payments on all such bonds, including any interest related thereto and the  
430 retirement of such bonds.

431 § 33.1-23.03:2.1. *Mass Transit Improvement Fund.*

432 A. There is hereby created in the state treasury a special nonreverting fund known as the Mass  
433 Transit Improvement Fund, hereafter referred to as "the Fund." The Fund shall be established on the  
434 books of the Comptroller as a subfund of the Transportation Trust Fund, established under  
435 § 33.1-23.03:1, and shall consist of moneys designated for the Fund pursuant to the Commonwealth  
436 Transportation Future Fund established under § 33.1-23.1:01. Interest earned on the moneys in the  
437 Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including  
438 interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in  
439 the Subfund. The Fund shall be administered by the Commonwealth Transportation Board.

440 B. Moneys in the Fund shall be used solely to address the mass transit needs of the Commonwealth  
441 as follows:

442 1. Subject to their appropriation by the General Assembly, first to pay debt service on bonds or  
443 obligations for which the Fund is expressly required for making debt service payments, to the extent  
444 needed.

445 2. From any such funds that may remain after payment of the debt service in subdivision 1, such  
446 funds shall be distributed to the Commonwealth Mass Transit Fund to be used for operational costs of  
447 mass transit.

448 § 33.1-23.03:11. *Tolling Incentive Fund.*

449 A. There is hereby created in the state treasury a special nonreverting fund known as the Tolling  
450 Incentive Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the  
451 Comptroller, and shall consist of moneys designated for the Fund pursuant to the Commonwealth  
452 Transportation Future Fund established under § 33.1-23.1:01. The Fund shall be administered by the  
453 Board. Interest earned on the moneys in the Fund shall remain in the Fund and be credited to it. Any  
454 moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert  
455 to the general fund but shall remain in the Fund.

456 B. Moneys in the Fund shall be used to encourage the use of tolling in the Commonwealth. Awards  
457 from the Fund shall be allocated to construction districts in the Commonwealth and used to match new  
458 or incremental tolling revenue generated by the creation of new tolling facilities or the expansion of  
459 existing tolling facilities. Allocations from the Fund to a construction district shall be used within the  
460 construction district for projects relating to improving transportation infrastructure.

461 C. The Board shall develop and publish guidelines including, but not limited to, the benefits of  
462 tolling, how to best incentivize the use of tolling in the Commonwealth, the matching requirements for  
463 an award from the Fund, and the criteria for determination of allocations from the Fund.

464 § 33.1-23.1:01. *Commonwealth Transportation Future Fund.*

465 A. There is hereby created in the state treasury a special nonreverting fund known as the  
466 Commonwealth Transportation Future Fund, hereafter referred to as "the Fund." The Fund shall be  
467 established on the books of the Comptroller. Any moneys collected by virtue of enactments of the 2008  
468 Special Session II of the Virginia General Assembly which amend § 58.1-2217, 58.1-2249, or 58.1-2402,  
469 and any other public or private moneys designated for the Fund shall be paid into the state treasury  
470 and credited to the Fund. Interest earned on the moneys in the Fund shall remain in the Fund and be  
471 credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal  
472 year shall not revert to the general fund but shall remain in the Fund.

473 B. Moneys in the Fund shall be used solely to address transportation projects and needs in the  
474 Commonwealth as follows:

475 1. First, \$6.5 million in fiscal year 2009, \$16.5 million in fiscal year 2010, and for all subsequent  
476 fiscal years the preceeding fiscal year's deposit plus five percent of the preceeding year's deposit as  
477 follows:

478 a. Twenty percent shall be deposited into the Commonwealth Port Fund established under  
479 subdivision A 2 of § 58.1-638;

480 b. Eleven percent shall be deposited into the Commonwealth Airport Fund established under  
481 subdivision A 3 of § 58.1-638; and

482 c. Sixty-nine percent shall be deposited into the Commonwealth Mass Transit Fund established under  
483 subdivision A 4 of § 58.1-638.

484 2. The next \$50 million of such revenues in each fiscal year shall be deposited into the Tolling  
485 Incentive Fund established under § 33.1-23.03:11, beginning in fiscal year 2011.

486 3. After the deposits in subdivisions 1 and 2 have been made, of the remaining revenue set forth in  
487 subsection A:

488 a. Three and three-quarters percent shall be deposited into the Mass Transit Improvement Fund  
489 established under § 33.1-23.03:2.1. It is the intent of the General Assembly that this distribution



provides funding for mass transit that otherwise would have been funded through the formula allocation of the Transportation Trust Fund under subdivision A of § 33.1-23.03:2;

b. Eleven and one-quarter percent shall be deposited into the Transportation Trust Fund established under § 33.1-23.03:1, and

c. Eighty-five percent shall be deposited into the Highway Maintenance and Operating Fund.

C. All monies deposited into the Commonwealth Transportation Future 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 or transit operating costs in the Commonwealth, and not in lieu of the same. Such other allocations shall not be computed or determined or administered in any manner that takes into consideration any moneys deposited into the Commonwealth Transportation Future Fund (with the exception of those moneys deposited into the Transportation Trust Fund pursuant to subdivision B 3 b).

§ 33.1-23.4:02. Allocation of Proceeds of Commonwealth of Virginia Mass Transit Capital Projects Bond Act of 2008.

A. The Commonwealth Transportation Board shall allocate, use, and distribute the proceeds of any bonds it is authorized to issue pursuant to subdivision 4g of § 33.1-269, as follows:

1. First to match federal funds projected to be made available and allocated to mass transit public transportation capital projects by the Board; and

2. Next, to pay or fund the costs of statewide or regional mass transit public transportation capital projects throughout the Commonwealth. Costs incurred or to be incurred for construction or funding of such capital projects shall include, but are not limited to, environmental and engineering studies, rights-of-way acquisition, improvements to all modes of transportation, acquisition including but not limited to acquisition of mass transit capital, construction and related improvements, and any financing costs or other financing expenses related to such bonds. Such costs may include the payment of interest on such bonds for a period during construction and not exceeding one year after completion of construction of the relevant project. Such costs may also include the payment of interest on such bonds for a period not exceeding one year after acquisition of mass transit capital.

B. It is the intent of the General Assembly that the proceeds of any bonds authorized under subdivision 4g of § 33.1-269 be used for the improvement of existing mass transit facilities and infrastructure and new mass transit projects aimed at relieving highway congestion through the development of a more efficient mass transit system in the Commonwealth.

§ 33.1-268. Definitions.

As used in this article, the following words and terms shall have the following meanings:

(1) The word "Board" means the Commonwealth Transportation Board, or if the Commonwealth Transportation Board is abolished, any board, commission or officer succeeding to the principal functions thereof or upon whom the powers given by this article to the Board shall be given by law.

(2) The word "project" or "projects" means any one or more of the following:

(a) York River Bridges, extending from a point within the Town of Yorktown in York County, or within York County across the York River to Gloucester Point or some point in Gloucester County.

(b) Rappahannock River Bridge, extending from Greys Point, or its vicinity, in Middlesex County, across the Rappahannock River to a point in the vicinity of White Stone, in Lancaster County, or at some other feasible point in the general vicinity of the two respective points.

(c), (d) —Reserved.]

(e) James River Bridge, from a point at or near Jamestown, in James City County, across the James River to a point in Surry County.

(f), (g) —Reserved.]

(h) James River, Chuckatuck and Nansemond River Bridges, together with necessary connecting roads, in the Cities of Newport News and Suffolk and the County of Isle of Wight.

(i) —Reserved.]

(j) Hampton Roads Bridge, Tunnel, or Bridge and Tunnel System, extending from a point or points in the Cities of Newport News and Hampton on the northwest shore of Hampton Roads across Hampton Roads to a point or points in the City of Norfolk or Suffolk on the southeast shore of Hampton Roads.

(k) The Norfolk-Virginia Beach Highway, extending from a point in the vicinity of the intersection of Interstate Route 64 and Primary Route 58 at Norfolk to some feasible point between London Bridge and Primary Route 60.

(l) The Henrico-James River Bridge, extending from a point on the eastern shore of the James River in Henrico County to a point on the western shore, between Falling Creek and Bells Road interchanges of the Richmond-Petersburg Turnpike; however, the project shall be deemed to include all property, rights, easements and franchises relating to any of the foregoing projects and deemed necessary or convenient for the operation thereof and to include approaches thereto.

(m) The limited access highway between the Patrick Henry Airport area and the Newport News

551 downtown area which generally runs parallel to tracks of the Chesapeake and Ohio Railroad.

552 (n) Transportation improvements in the Dulles Corridor, with an eastern terminus of the East Falls  
553 Church Metrorail station at Interstate Route 66 and a western terminus of Virginia Route 772 in  
554 Loudoun County, including without limitation the Dulles Toll Road, the Dulles Access Road, outer  
555 roadways adjacent or parallel thereto, mass transit, including rail, bus rapid transit, and capacity  
556 enhancing treatments such as High-Occupancy Vehicle lanes, High-Occupancy Toll (HOT) lanes,  
557 interchange improvements, commuter parking lots, and other transportation management strategies.

558 (o), (p) —Repealed.]

559 (q) Subject to the limitations and approvals of § 33.1-279.1, any other highway for a primary  
560 highway transportation improvement district or transportation service district which the Board has agreed  
561 to finance under a contract with any such district or any other alternative mechanism for generation of  
562 local revenues for specific funding of a project satisfactory to the Commonwealth Transportation Board,  
563 the financing for which is to be secured by Transportation Trust Fund revenues under any appropriation  
564 made by the General Assembly for that purpose and payable first from revenues received under such  
565 contract or other local funding source, second, to the extent required, from funds appropriated and  
566 allocated, pursuant to the highway allocation formula as provided by law, to the highway construction  
567 district in which the project is located or to the county or counties in which the project is located and  
568 third, to the extent required from other legally available revenues of the Trust Fund and from any other  
569 available source of funds.

570 (r) U.S. 58 Corridor Development Program projects as defined in §§ 33.1-221.1:2 and 58.1-815.

571 (s) The Northern Virginia Transportation District Program as defined in § 33.1-221.1:3.

572 (t) Any program for highways or mass transit or transportation facilities, endorsed by the local  
573 jurisdiction or jurisdictions affected, which agree that certain distributions of state recordation taxes will  
574 be dedicated and used for the payment of any bonds or other obligations, including interest thereon, the  
575 proceeds of which were used to pay the cost of the program. Any such program shall be referred to as a  
576 "Transportation Improvement Program."

577 (u) Any project designated from time to time by the General Assembly financed in whole or part  
578 through the issuance of Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes.

579 (v) Any project authorized by the General Assembly financed in whole or in part by funds from the  
580 Priority Transportation Fund established pursuant to § 33.1-23.03:8 or from the proceeds of bonds whose  
581 debt service is paid in whole or in part by funds from such Fund.

582 (w) *Any project authorized by the General Assembly financed in whole or in part by funds from the*  
583 *Mass Transit Improvement Fund established pursuant to § 33.1-23.03:2.1 or from the proceeds of bonds*  
584 *whose debt service is paid in whole or in part by funds from such Fund.*

585 (3) The word "undertaking" means all of the projects authorized to be acquired or constructed under  
586 this article.

587 (4) The word "improvements" means such repairs, replacements, additions and betterments of and to  
588 a project acquired by purchase or by condemnation as are deemed necessary to place it in a safe and  
589 efficient condition for the use of the public, if such repairs, replacements, additions and betterments are  
590 ordered prior to the sale of any bonds for the acquisition of such project.

591 (5) The term "cost of project" as applied to a project to be acquired by purchase or by  
592 condemnation, includes the purchase price or the amount of the award, cost of improvements, financing  
593 charges, interest during any period of disuse before completion of improvements, cost of traffic  
594 estimates and of engineering and legal expenses, plans, specifications and surveys, estimates of cost and  
595 of revenues, other expenses necessary or incident to determining the feasibility or practicability of the  
596 enterprises, administrative expenses and such other expenses as may be necessary or incident to the  
597 financing herein authorized and the acquisition of the project and the placing of the project in operation.

598 (6) The term "cost of project" as applied to a project to be constructed, embraces the cost of  
599 construction, the cost of all lands, properties, rights, easements and franchises acquired which are  
600 deemed necessary for such construction, the cost of acquiring by purchase or condemnation any ferry  
601 which is deemed by the Board to be competitive with any bridge to be constructed, the cost of all  
602 machinery and equipment, financing charges, interest prior to and during construction and for one year  
603 after completion of construction, cost of traffic estimates and of engineering data, engineering and legal  
604 expenses, cost of plans, specifications and surveys, estimates of cost and of revenues, other expenses  
605 necessary or incident to determining the feasibility or practicability of the enterprise, administrative  
606 expense and such other expenses as may be necessary or incident to the financing herein authorized, the  
607 construction of the project, the placing of the project in operation and the condemnation of property  
608 necessary for such construction and operation.

609 (7) The word "owner" includes all individuals, incorporated companies, copartnerships, societies or  
610 associations having any title or interest in any property rights, easements or franchises authorized to be  
611 acquired by this article.

612 (8) —Repealed.]

(9) The words "revenue" and "revenues" include tolls and any other moneys received or pledged by the Board pursuant to this article, including, without limitation, legally available Transportation Trust Fund revenues and any federal highway reimbursements and any other federal highway assistance received from time to time by the Commonwealth.

(10) The terms "toll project" and "toll projects" mean projects financed in whole or in part through the issuance of revenue bonds which are secured by toll revenues generated by such project or projects.

§ 33.1-269. General powers of Board.

The Commonwealth Transportation Board may, subject to the provisions of this article:

1. Acquire by purchase or by condemnation, construct, improve, operate and maintain any one or more of the projects mentioned and included in the undertaking defined in this article;

2. Issue revenue bonds of the Commonwealth, to be known and designated as "Commonwealth of Virginia Toll Revenue Bonds," payable from earnings and from any other available sources of funds, to pay the cost of such projects;

3. Subject to the limitations and approvals of § 33.1-279.1, issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Contract Revenue Bonds," secured by Transportation Trust Fund revenues under a payment agreement between the Board and the Treasury Board, subject to their appropriation by the General Assembly and payable first from revenues received pursuant to contracts with a primary highway transportation improvement district or transportation service district or other local revenue sources for which specific funding of any such bonds may be authorized by law; second, to the extent required, from funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the county or counties in which the project or projects to be financed are located; and third, to the extent required, from other legally available revenues of the Trust Fund and from any other available source of funds;

4. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Revenue Bonds," secured (i) by revenues received from the U.S. Route 58 Corridor Development Fund, subject to their appropriation by the General Assembly, (ii) to the extent required, from revenues legally available from the Transportation Trust Fund and (iii) to the extent required, from any other legally available funds which have been appropriated by the General Assembly;

4a. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Revenue Bonds," secured, subject to their appropriation by the General Assembly, first from (i) revenues received from the Northern Virginia Transportation District Fund, (ii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the city or county in which the project or projects to be financed are located, (iii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iv) such other funds which may be appropriated by the General Assembly;

4b. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Program Revenue Bonds" secured, subject to their appropriation by the General Assembly, first from (i) any revenues received from any Set-aside Fund established by the General Assembly pursuant to § 58.1-816.1, (ii) to the extent required, revenues received pursuant to any contract with a local jurisdiction or any alternative mechanism for generation of local revenues for specific funding of a project satisfactory to the Commonwealth Transportation Board, (iii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the city or county in which the project or projects to be financed are located, (iv) to the extent required, legally available revenues of the Transportation Trust Fund, and (v) such other funds which may be appropriated by the General Assembly. No bonds for any project or projects shall be issued under the authority of this subsection unless such project or projects are specifically included in a bill or resolution passed by the General Assembly;

4c. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Program Revenue Bonds" secured, subject to their appropriation by the General Assembly, first from (i) any revenues received from the Commonwealth Transit Capital Fund established by the General Assembly pursuant to subdivision A 4 g of § 58.1-638, (ii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iii) such other funds which may be appropriated by the General Assembly. No bonds for any project or projects shall be issued under the authority of this subsection unless such project or projects are specifically included in a bill or resolution passed by the General Assembly;

4d. Issue revenue bonds of the Commonwealth from time to time to be known and designated as "Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes" secured, subject to their appropriation by the General Assembly, (i) first from any federal highway reimbursements and any

674 other federal highway assistance received from time to time by the Commonwealth, (ii) then, at the  
675 discretion of the Board, to the extent required, from legally available revenues of the Transportation  
676 Trust Fund, and (iii) then from such other funds, if any, which are designated by the General Assembly  
677 for such purpose;

678 4e. Issue revenue bonds of the Commonwealth from time to time to be known and designated as  
679 "Commonwealth of Virginia Credit Assistance Revenue Bonds," secured, subject to their appropriation  
680 by the General Assembly, solely from revenues with respect to or generated by the project or projects  
681 being financed thereby and any tolls or other revenues pledged by the Board as security therefor and in  
682 accordance with the applicable federal credit assistance authorized with respect to such project or  
683 projects by the United States Department of Transportation;

684 4f. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of  
685 Virginia Transportation Capital Projects Revenue Bonds," secured, subject to their appropriation by the  
686 General Assembly, (i) from the revenues deposited into the Priority Transportation Fund established  
687 pursuant to § 33.1-23.03:8; (ii) to the extent required, from revenues legally available from the  
688 Transportation Trust Fund; and (iii) to the extent required, from any other legally available funds;

689 4g. *Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of*  
690 *Virginia Mass Transit Capital Projects Revenue Bonds," secured, subject to their appropriation by the*  
691 *General Assembly, (i) from the revenues deposited into the Mass Transit Improvement Fund established*  
692 *pursuant to § 33.1-23.03:2.1; (ii) to the extent required, from revenues legally available from the*  
693 *Transportation Trust Fund; and (iii) to the extent required, from any other legally available funds.*

694 5. Fix and collect tolls and other charges for the use of such projects or to refinance the cost of such  
695 projects;

696 6. Construct grade separations at intersections of any projects with public highways, streets or other  
697 public ways or places and change and adjust the lines and grades thereof so as to accommodate the  
698 same to the design of such grade separations, the cost of such grade separations and any damage  
699 incurred in changing and adjusting the lines and grades of such highways, streets, ways and places to be  
700 ascertained and paid by the Board as a part of the cost of the project;

701 7. Vacate or change the location of any portion of any public highway, street or other public way or  
702 place and reconstruct the same at such new location as the Board deems most favorable for the project  
703 and of substantially the same type and in as good condition as the original highway, streets, way or  
704 place, the cost of such reconstruction and any damage incurred in vacating or changing the location  
705 thereof to be ascertained and paid by the Board as a part of the cost of the project. Any public highway,  
706 street or other public way or place vacated or relocated by the Board shall be vacated or relocated in the  
707 manner provided by law for the vacation or relocation of public roads and any damages awarded on  
708 account thereof may be paid by the Board as a part of the cost of the project;

709 8. Make reasonable regulations for the installation, construction, maintenance, repair, renewal and  
710 relocation of pipes, mains, sewers, conduits, cables, wires, towers, poles and other equipment and  
711 appliances herein called "public utility facilities," of the Commonwealth and of any municipality, county,  
712 or other political subdivision, public utility or public service corporation owning or operating the same  
713 in, on, along, over or under the project. Whenever the Board determines that it is necessary that any  
714 such public utility facilities should be relocated or removed, the Commonwealth or such municipality,  
715 county, political subdivision, public utility or public service corporation shall relocate or remove the  
716 same in accordance with the order of the Board. The cost and expense of such relocation or removal,  
717 including the cost of installing such public utility facilities in a new location or locations, and the cost  
718 of any lands or any rights or interests in lands, and any other rights acquired to accomplish such  
719 relocation or removal shall be ascertained by the Board.

720 On any toll project, the Board shall pay the cost and expense of relocation or removal as a part of  
721 the cost of the project for those public utility facilities owned or operated by the Commonwealth or such  
722 municipality, county, political subdivision, public utility or public service corporation. On all other  
723 projects, under this article, the Board shall pay the cost and expense of relocation or removal as a part  
724 of the cost of the project for those public utility facilities owned or operated by the Commonwealth or  
725 such municipality, county, or political subdivision. The Commonwealth or such municipality, county,  
726 political subdivision, public utility or public service corporation may maintain and operate such public  
727 utility facilities with the necessary appurtenances, in the new location or locations, for as long a period  
728 and upon the same terms and conditions as it had the right to maintain and operate such public utility  
729 facilities in their former location or locations;

730 9. Acquire by the exercise of the power of eminent domain any lands, property, rights, rights-of-way,  
731 franchises, easements and other property, including public lands, parks, playgrounds, reservations,  
732 highways or parkways, or parts thereof or rights therein, of any municipality, county or other political  
733 subdivision, deemed necessary or convenient for the construction or the efficient operation of the project  
734 or necessary in the restoration, replacement or relocation of public or private property damaged or  
735 destroyed.

The cost of such projects shall be paid solely from the proceeds of Commonwealth of Virginia Toll or Transportation Contract Revenue Bonds or a combination thereof or from such proceeds and from any grant or contribution which may be made thereto pursuant to the provisions of this article;

10. Notwithstanding any provision of this article to the contrary, the Board shall be authorized to exercise the powers conferred herein, in addition to its general powers to acquire rights-of-way and to construct, operate and maintain state highways, with respect to any project which the General Assembly has authorized or may hereafter authorize to be financed in whole or in part through the issuance of bonds of the Commonwealth pursuant to the provisions of Section 9 (c) of Article X of the Constitution of Virginia; and

11. Enter into any agreements or take such other actions as the Board shall determine in connection with applying for or obtaining any federal credit assistance, including without limitation loan guarantees and lines of credit, pursuant to authorization from the United States Department of Transportation with respect to any project included in the Commonwealth's long-range transportation plan and the approved State Transportation Improvement Program.

§ 33.1-277. Credit of Commonwealth not pledged.

A. Commonwealth of Virginia Toll Revenue Bonds issued under the provisions of this article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds herein provided therefor from tolls and revenues, from bond proceeds or earnings thereon and from any other available sources of funds. All such bonds shall state on their face that the Commonwealth of Virginia is not obligated to pay the same or the interest thereon except from the special fund provided therefor from tolls and revenues under this article, from bond proceeds or earnings thereon and from any other available sources of funds and that the faith and credit of the Commonwealth are not pledged to the payment of the principal or interest of such bonds. The issuance of such revenue bonds under the provisions of this article shall not directly or indirectly or contingently obligate the Commonwealth to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment, other than appropriate available funds derived as revenues from tolls and charges under this article or derived from bond proceeds or earnings thereon and from any other available sources of funds.

B. Commonwealth of Virginia Transportation Contract Revenue Bonds issued under the provisions of this article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds herein provided therefor (i) from revenues received pursuant to contracts with a primary highway transportation district or transportation service district or any other alternative mechanism for generation of local revenues for specific funding of a project satisfactory to the Commonwealth Transportation Board, (ii) to the extent required, from funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the county or counties in which such project or projects are located, (iii) from bond proceeds or earnings thereon, (iv) to the extent required, from other legally available revenues of the Trust Fund, and (v) from any other available source of funds. All such bonds shall state on their face that the Commonwealth of Virginia is not obligated to pay the same or the interest thereon except from revenues in clauses (i) and (iii) hereof and that the faith and credit of the Commonwealth are not pledged to the payment of the principal and interest of such bonds. The issuance of such revenue bonds under the provisions of this article shall not directly or indirectly or contingently obligate the Commonwealth to levy or to pledge any form of taxation whatever or to make any appropriation for their payment, other than to appropriate available funds derived as revenues under this article from the sources set forth in clauses (i) and (iii) hereof. Nothing in this article shall be construed to obligate the General Assembly to make any appropriation of the funds set forth in clause (ii) or (iv) hereof for payment of such bonds.

C. Commonwealth of Virginia Transportation Revenue Bonds issued under the provisions of this article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the full faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds herein provided therefor (i) from revenues received from the U.S. Route 58 Corridor Development Fund, subject to their appropriation by the General Assembly, (ii) to the extent required, from revenues legally available from the Transportation Trust Fund and (iii) to the extent required, from any other legally available funds which shall have been appropriated by the General Assembly.

D. Commonwealth of Virginia Transportation Revenue Bonds issued under this article for Category 1 projects as provided in subdivision (2) (s) of § 33.1-268 shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the faith and credit of the Commonwealth. Such bonds shall be payable solely, subject to their appropriation by the General Assembly, first from (i) revenues received from the Northern Virginia Transportation District Fund, (ii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the

highway construction district in which the project or projects to be financed are located or to the city or county in which the project or projects to be financed are located, (iii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iv) such other funds which may be appropriated by the General Assembly.

E. Commonwealth of Virginia Transportation Program Revenue Bonds issued under this article for projects defined in subdivision (2) (t) of § 33.1-268 shall not be deemed to constitute a debt of the Commonwealth or a pledge of the faith and credit of the Commonwealth. Such bonds shall be payable solely, subject to their appropriation by the General Assembly, first from (i) any revenues received from any Set-aside Fund established by the General Assembly pursuant to § 58.1-816.1, (ii) to the extent required, revenues received pursuant to any contract with a local jurisdiction or any alternative mechanism for generation of local revenues for specific funding of a project satisfactory to the Commonwealth Transportation Board, (iii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the city or county in which the project or projects to be financed are located, (iv) to the extent required, legally available revenues from the Transportation Trust Fund, and (v) such other funds which may be appropriated by the General Assembly.

F. Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes issued under this article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the full faith and credit of the Commonwealth, but such obligations shall be payable solely, subject to appropriation by the General Assembly, (i) first from any federal highway reimbursements and any other federal highway assistance received from time to time by the Commonwealth, (ii) then, at the discretion of the Board, to the extent required, from legally available revenues of the Transportation Trust Fund, and (iii) then, from such other funds, if any, which are designated by the General Assembly for such purpose.

G. Commonwealth of Virginia Transportation Credit Assistance Revenue Bonds issued under the provisions of this article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the full faith and credit of the Commonwealth, but such obligations shall be payable solely, subject to appropriation by the General Assembly, from revenues with respect to or generated by the project or projects being financed thereby and any tolls or other revenues pledged by the Board as security therefor and in accordance with the applicable federal credit assistance authorized with respect to such project or projects by the United States Department of Transportation.

H. Commonwealth of Virginia Transportation Capital Projects Revenue Bonds issued under the provisions of this article for projects as provided in subdivision 2 v of § 33.1-268 shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the full faith and credit of the Commonwealth, but such bonds shall be payable solely, subject to their appropriation by the General Assembly, (i) from the revenues deposited into the Priority Transportation Fund established pursuant to § 33.1-23.03:8; (ii) to the extent required, from revenues legally available from the Transportation Trust Fund; and (iii) to the extent required, from any other legally available funds.

*I. Commonwealth of Virginia Mass Transit Capital Projects Revenue Bonds issued under the provisions of this article for projects as provided in subdivision 2 w of § 33.1-268 shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the full faith and credit of the Commonwealth, but such bonds shall be payable solely, subject to their appropriation by the General Assembly, (i) from the revenues deposited into the Mass Transit Improvement Fund established pursuant to § 33.1-23.03:2.1; (ii) to the extent required, from revenues legally available from the Transportation Trust Fund; and (iii) to the extent required, from any other legally available funds.*

§ 33.1-391.5. Responsibilities of Department.

The Department shall have the following responsibilities:

1. Determine present and future needs for, and economic feasibility of providing, public transportation, transportation demand management, and ridesharing facilities and services and the retention, improvement, and addition of passenger and freight rail transportation in the Commonwealth;

2. Formulate and implement plans and programs for the establishment, improvement, development and coordination of public transportation, transportation demand management, and ridesharing facilities and services, and the retention and improvement of passenger and freight rail transportation services and corridors in the Commonwealth, and coordinate transportation demand management and innovative technological transportation initiatives with the Department of Transportation;

3. Coordinate with the Department of Transportation in the conduct of research, policy analysis, and planning for the rail and public transportation modes as may be appropriate to ensure the provision of effective, safe, and efficient public transportation and passenger and freight rail services in the Commonwealth;

4. Develop uniform financial and operating data on and criteria for evaluating all public transportation activities in the Commonwealth, develop specific methodologies for the collection of such

data by public transit operators, regularly and systematically verify such data by means of financial audits and periodic field reviews of operating data collection methodologies, and develop such other information as may be required to evaluate the performance and improve the economy or efficiency of public transit or passenger and freight rail operations, transportation demand management programs, and ridesharing in the Commonwealth;

5. Compile and maintain an up-to-date inventory of all abandoned railroad corridors in the Commonwealth abandoned after January 1, 1970;

6. Provide training and other technical support services to transportation operators and ridesharing coordinators as may be appropriate to improve public transportation, ridesharing, and passenger and freight rail services;

7. Maintain liaison with state, local, district and federal agencies or other entities, private and public, having responsibilities for passenger and freight rail, transportation demand management, ridesharing, and public transportation programs;

8. Receive, administer and allocate all planning, operating, capital, and any other grant programs from the Federal Transit Administration, the Federal Railroad Administration, the Federal Highway Administration, and other agencies of the United States government for public transportation, passenger and freight rail transportation, transportation demand management, and ridesharing purposes with approval of the Board and to comply with all conditions attendant thereto;

9. Administer all state grants for public transportation, rail transportation, ridesharing, and transportation demand management purposes with approval of the Board;

10. Promote the use of public transportation, transportation demand management, ridesharing, and passenger and freight rail services to improve the mobility of Virginia's citizens and the transportation of goods;

11. Represent the Commonwealth on local, regional, and national agencies, industry associations, committees, task forces, and other entities, public and private, having responsibility for passenger and freight rail, transportation demand management, ridesharing, and public transportation;

12. Represent the Commonwealth's interests in passenger and freight rail, transportation demand management, ridesharing, and public transportation and coordinate with the Department of Transportation in the planning, location, design, construction, implementation, monitoring, evaluation, purchase, and rehabilitation of facilities and services that affect or are used by passenger and freight rail, transportation demand management, ridesharing, or public transportation;

13. Coordinate with the State Corporation Commission on all matters dealing with rail safety inspections and rail regulations which fall within its purview;

14. Prepare and review state legislation and Commonwealth recommendations on federal legislation and regulations as directed by the Secretary of Transportation; ~~and~~

15. Promote public transportation, ridesharing, and passenger and freight rail safety; *and*

16. *Assist the Secretary of Administration in advising state agencies, localities, and private sector employers on implementation of programs, projects, plans, policies, incentives and other activities included in the Commuter Reduction Program established pursuant to § 2.2-203.1.*

#### CHAPTER 10.3.

#### REVENUES FOR TRANSPORTATION IN HAMPTON ROADS.

§ 33.1-391.16. *Use of Hampton Roads Transportation Revenue Fund moneys; certain transportation projects delineated.*

*Moneys deposited into the Hampton Roads Transportation Revenue Fund (the "Fund") established under § 33.1-391.17 shall be used solely for those transportation projects that are included in the federally mandated 2030 Regional Transportation Plan approved by the Hampton Roads Metropolitan Planning Organization, or any successive plan, except as provided herein. The following First Phase Projects shall be a priority such that moneys in the Fund shall not be used for the following Second Phase Projects until financing plans for the maintenance, operation, and construction for the projects listed in the First Phase have been considered and acted upon:*

*First Phase Projects:*

*I-64 widening on the Peninsula public-private partnership; Downtown Tunnel/Midtown Tunnel/MLK extension public-private partnership; and the U.S. Route 460 upgrade public-private partnership.*

*Second Phase Projects:*

*I-64 widening on the Southside; Southeastern Parkway/Dominion Boulevard/Route 17; I-664 widening in Newport News; I-664 widening on the Southside; I-664 Monitor Merrimac Memorial Bridge Tunnel widening; I-564 from I-64 to the Intermodal Connector; I-564 Connector to the Monitor Merrimac Memorial Bridge Tunnel; Craney Island Connector; and construction/improvements/enhancements to the Hampton Roads Bridge-Tunnel.*

*Moneys in the Fund may be used for the payment of principal, interest, issuance costs, and other costs directly relating to bonds or other debt issued or entered into solely for the transportation projects*

920 *described or set out in this section.*

921 *§ 33.1-391.17. Hampton Roads Transportation Revenue Fund established.*

922 *There is hereby created in the state treasury a special nonreverting fund to be known as the*  
923 *Hampton Roads Transportation Revenue Fund, hereafter referred to as "the Fund." The Fund shall be*  
924 *established on the books of the Comptroller. The Fund shall consist of the revenues designated for the*  
925 *fund pursuant to §§ 58.1-603.2, 58.1-639.2, and 58.1-1724.3. All other moneys designated for the Fund*  
926 *from any other source, public or private, shall be paid into the state treasury to the credit of the Fund.*  
927 *Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys*  
928 *remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the*  
929 *general fund but shall remain in the Fund. The Fund shall be considered a part of the Transportation*  
930 *Trust Fund.*

931 *The Commonwealth Transportation Board shall use the moneys in the Fund pursuant to*  
932 *§ 33.1-391.16 solely for the transportation projects described or set out in such section.*

933 *Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants*  
934 *issued by the Comptroller.*

935 *§ 33.1-391.18. Fund allocations in addition to all other transportation allocations for Hampton*  
936 *Roads.*

937 *All moneys deposited into the Hampton Roads Transportation Revenue Fund shall be in addition to*  
938 *all other allocations under this Code for transportation facilities, road or highway maintenance, mass*  
939 *transit, airports, seaports, or transportation or transit operating costs in Hampton Roads, and not in*  
940 *lieu of the same. Such other allocations shall not be computed or determined or administered in any*  
941 *manner that takes into consideration any moneys deposited into the Hampton Roads Transportation*  
942 *Revenue Fund.*

943 *§ 58.1-603.1. Imposition of additional state retail sales and use taxes in Northern Virginia.*

944 *A. There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a*  
945 *general retail sales and use tax at the rate of one-half of one percent in the counties and cities*  
946 *embraced by the Northern Virginia Transportation Authority.*

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

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

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

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

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

958 *G. The revenues from the tax imposed under subsection A shall be deposited by the Comptroller into*  
959 *the Northern Virginia Transportation Authority Revenue Fund established under § 15.2-4841. For the*  
960 *purposes of depositing such revenues into the Fund, there shall be deposited into the Fund an estimate*  
961 *developed by the Department of Taxation of such revenues to be received into the state treasury each*  
962 *month, net of the estimated applicable portion of any refunds to taxpayers and after subtraction of the*  
963 *direct costs of administration by the Department of Taxation. For each such estimate developed, the Tax*  
964 *Commissioner shall provide a written certification to the Comptroller and to the chairman of the*  
965 *Northern Virginia Transportation Authority established under § 15.2-4830, which certification shall*  
966 *report such estimated revenues attributable to each county and city. Such estimated payments into the*  
967 *Fund shall be adjusted for the actual net revenues received in the preceding month.*

968 *§ 58.1-603.2. Imposition of additional state retail sales and use taxes in Hampton Roads.*

969 *A. There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a*  
970 *general retail sales and use tax at the rate of three-quarters of one percent in the Counties of Isle of*  
971 *Wright, James City, and York and the Cities of Chesapeake, Hampton, Newport News, Norfolk,*  
972 *Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg .*

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

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

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

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

981 *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 from the tax imposed under subsection A shall be deposited by the Comptroller into the Hampton Roads Transportation Revenue Fund established under § 33.1-391.17. For the 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. Such estimated payments into the Fund shall be adjusted for the actual net revenues received in the preceding month.

§ 58.1-603.3. Imposition of additional state retail sales and use taxes in certain regions.

A. As used in this section, unless the context clearly shows otherwise:

"Metropolitan planning area" means the geographic area of any metropolitan planning area as of January 1, 2008, pursuant to § 134 of Title 23 of the United States Code.

"Metropolitan planning organization" means a metropolitan planning organization designated pursuant to § 134 of Title 23 of the United States Code.

"Urban region" means collectively the Commonwealth counties and cities (i) wholly embraced within a metropolitan planning area and (ii) having a representative that is a voting member of the metropolitan planning organization for the metropolitan planning area. If a county or city as of January 1, 2008, is embraced within more than one metropolitan planning area, such county or city shall be deemed to be wholly embraced within that metropolitan planning area in which the majority of the locality's population resides as of such date.

B. 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 percent in any urban region of the Commonwealth that has at any time an aggregate of at least 8.5 million daily vehicle miles traveled in the area in accordance with the most recent written determinations of daily vehicle miles traveled by the Virginia Department of Transportation. Based solely on this requirement, the Tax Commissioner shall be responsible for making the written determination of whether an urban region has met such requirement.

The tax shall be imposed on July 1 of the calendar year following the date of the Tax Commissioner's written determination, with a regular session of the Virginia General Assembly intervening between the time of the written determination and the imposition of the tax.

The Tax Commissioner shall promptly provide a copy of any written determination to the Governor and the chairman of the House Committee on Appropriations, the House Committee on Finance, and the Senate Committee on Finance. The written determination shall include the date on which the tax shall be first imposed in the respective urban region.

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

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

E. The tax imposed under subsection B 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.

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

G. The tax imposed under subsection B 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*.

H. The revenues from the tax imposed under subsection B shall be deposited by the Comptroller into a special nonreverting fund within the state treasury for the respective urban region entitled the "Revenue Fund for the Urban Region of ...." The Fund shall be established on the books of the Comptroller when the tax under subsection B is first imposed in the respective urban region. 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.

For the 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. Such estimated deposits into the Fund shall be adjusted for the actual net revenues received in the preceding month.

I. Except as otherwise specifically provided by law, the net revenues generated and collected from the tax imposed under subsection B shall be allocated by the Commonwealth Transportation Board solely for transportation projects in the respective urban region that are included in the federally mandated Regional Transportation Plan approved by the metropolitan planning organization for the

1043 *respective urban region (or any successive plan).*

1044 *J. The provisions of this section shall not apply to any county or city in which an additional state*  
1045 *sales tax is imposed pursuant to § 58.1-603.1 or 58.1-603.2.*

1046 § 58.1-608.3. Entitlement to certain sales tax revenues.

1047 A. As used in this section, the following words and terms have the following meanings, unless some  
1048 other meaning is plainly intended:

1049 "Bonds" means any obligations of a municipality for the payment of money.

1050 "Cost," as applied to any public facility or to extensions or additions to any public facility, includes:

1051 (i) the purchase price of any public facility acquired by the municipality or the cost of acquiring all of  
1052 the capital stock of the corporation owning the public facility and the amount to be paid to discharge  
1053 any obligations in order to vest title to the public facility or any part of it in the municipality; (ii)  
1054 expenses incident to determining the feasibility or practicability of the public facility; (iii) the cost of  
1055 plans and specifications, surveys and estimates of costs and of revenues; (iv) the cost of all land,  
1056 property, rights, easements and franchises acquired; (v) the cost of improvements, property or  
1057 equipment; (vi) the cost of engineering, legal and other professional services; (vii) the cost of  
1058 construction or reconstruction; (viii) the cost of all labor, materials, machinery and equipment; (ix)  
1059 financing charges; (x) interest before and during construction and for up to one year after completion of  
1060 construction; (xi) start-up costs and operating capital; (xii) payments by a municipality of its share of the  
1061 cost of any multijurisdictional public facility; (xiii) administrative expense; (xiv) any amounts to be  
1062 deposited to reserve or replacement funds; and (xv) other expenses as may be necessary or incident to  
1063 the financing of the public facility. Any obligation or expense incurred by the public facility in  
1064 connection with any of the foregoing items of cost may be regarded as a part of the cost.

1065 "Municipality" means any county, city, town, authority, commission, or other public entity.

1066 "Public facility" means (i) any auditorium, coliseum, convention center, or conference center, which  
1067 is owned by a Virginia county, city, town, authority, or other public entity and where exhibits, meetings,  
1068 conferences, conventions, seminars, or similar public events may be conducted; (ii) any hotel which is  
1069 owned by a foundation whose sole purpose is to benefit a state-supported university and which is  
1070 attached to and is an integral part of such facility, together with any lands reasonably necessary for the  
1071 conduct of the operation of such events; or (iii) any hotel which is attached to and is an integral part of  
1072 such facility. However, such public facility must be located in the City of Hampton, City of Newport  
1073 News, City of Norfolk, City of Portsmouth, City of Roanoke, City of Salem, City of Staunton, or City  
1074 of Suffolk. Any property, real, personal, or mixed, which is necessary or desirable in connection with  
1075 any such auditorium, coliseum, convention center, or conference center, including, without limitation,  
1076 facilities for food preparation and serving, parking facilities, and administration offices, is encompassed  
1077 within this definition. However, structures commonly referred to as "shopping centers" or "malls" shall  
1078 not constitute a public facility hereunder. A public facility shall not include residential condominiums,  
1079 townhomes, or other residential units. In addition, only a new public facility, or a public facility which  
1080 will undergo a substantial and significant renovation or expansion, shall be eligible under subsection B  
1081 of this section. A new public facility is one whose construction began after December 31, 1991. A  
1082 substantial and significant renovation entails a project whose cost is at least 50 percent of the original  
1083 cost of the facility being renovated and shall have begun after December 31, 1991. A substantial and  
1084 significant expansion entails an increase in floor space of at least 50 percent over that existing in the  
1085 preexisting facility and shall have begun after December 31, 1991.

1086 "Sales tax revenues" means such tax collections realized under the Virginia Retail Sales and Use Tax  
1087 Act (§ 58.1-600 et seq.) of this title, as limited herein. "Sales tax revenues" does not include the revenue  
1088 generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the  
1089 General Assembly which shall be paid to the Transportation Trust Fund as defined in § 33.1-23.03:1,  
1090 nor shall it include the one percent of the state sales and use tax revenue distributed among the counties  
1091 and cities of the Commonwealth pursuant to subsection D of § 58.1-638 on the basis of school age  
1092 population. *In addition, "sales tax revenues" shall not include the revenue generated by any tax imposed*  
1093 *under § 58.1-603.1, 58.1-603.2, or 58.1-603.3.*

1094 B. Any municipality which has issued bonds (i) after December 31, 1991, but before January 1,  
1095 1996, (ii) on or after January 1, 1998, but before July 1, 1999, (iii) on or after January 1, 1999, but  
1096 before July 1, 2001, (iv) on or after July 1, 2000, but before July 1, 2003, (v) on or after July 1, 2001,  
1097 but before July 1, 2005, or (vi) on or after July 1, 2004, but before July 1, 2007, to pay the cost, or  
1098 portion thereof, of any public facility shall be entitled to all sales tax revenues generated by transactions  
1099 taking place in such public facility. Such entitlement shall continue for the lifetime of such bonds, which  
1100 entitlement shall not exceed 35 years, and all such sales tax revenues shall be applied to repayment of  
1101 the bonds. The State Comptroller shall remit such sales tax revenues to the municipality on a quarterly  
1102 basis, subject to such reasonable processing delays as may be required by the Department of Taxation to  
1103 calculate the actual net sales tax revenues derived from the public facility. The State Comptroller shall  
1104 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.

§ 58.1-611.1. Rate of tax on sales of food purchased for human consumption.

A. The tax imposed by §§ 58.1-603 and 58.1-604 on food purchased for human consumption shall be levied and distributed as follows:

1. From January 1, 2000, through midnight on June 30, 2005, the tax rate on such food shall be three percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638, (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C and D of § 58.1-638, and (iii) the revenue from the tax at the rate of one and one-half percent shall be used for general fund purposes.

2. On and after July 1, 2005, the tax rate on such food shall be one and one-half percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638 and (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C and D of § 58.1-638.

3. *On and after January 1, 2009, the tax rate on such food shall be one percent of the gross sales price. The revenue from the tax shall be distributed as provided in subsections B, C, and D of § 58.1-638.*

B. The provisions of this section shall not affect the imposition of tax on food purchased for human consumption pursuant to §§ 58.1-605 and 58.1-606.

C. As used in this section, "food purchased for human consumption" has the same meaning as "food" defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that Act, except it shall not include seeds and plants which produce food for human consumption. For the purpose of this section, "food purchased for human consumption" shall not include food sold by any retail establishment where the gross receipts derived from the sale of food prepared by such retail establishment for immediate consumption on or off the premises of the retail establishment constitutes more than 80 percent of the total gross receipts of that retail establishment, including but not limited to motor fuel purchases, regardless of whether such prepared food is consumed on the premises of that retail establishment. For purposes of this section, "retail establishment" means each place of business for which any "dealer," as defined in § 58.1-612, is required to apply for and receive a certificate of registration pursuant to § 58.1-613.

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

A. The tax levied by §§ 58.1-603, 58.1-603.1, 58.1-603.2, 58.1-603.3, 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 property;

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

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

7. As a representative, agent, or solicitor, of an out-of-state principal, solicits, receives and accepts orders from persons in this Commonwealth for future delivery and whose principal refuses to register as

1166 a dealer under § 58.1-613; or

1167 8. Becomes liable to and owes this Commonwealth any amount of tax imposed by this chapter,  
1168 whether he holds, or is required to hold, a certificate of registration under § 58.1-613.

1169 C. A dealer shall be deemed to have sufficient activity within the Commonwealth to require  
1170 registration under § 58.1-613 if he:

1171 1. Maintains or has within this Commonwealth, directly or through an agent or subsidiary, an office,  
1172 warehouse, or place of business of any nature;

1173 2. Solicits business in this Commonwealth by employees, independent contractors, agents or other  
1174 representatives;

1175 3. Advertises in newspapers or other periodicals printed and published within this Commonwealth, on  
1176 billboards or posters located in this Commonwealth, or through materials distributed in this  
1177 Commonwealth by means other than the United States mail;

1178 4. Makes regular deliveries of tangible personal property within this Commonwealth by means other  
1179 than common carrier. A person shall be deemed to be making regular deliveries hereunder if vehicles  
1180 other than those operated by a common carrier enter this Commonwealth more than twelve times during  
1181 a calendar year to deliver goods sold by him;

1182 5. Solicits business in this Commonwealth on a continuous, regular, seasonal, or systematic basis by  
1183 means of advertising that is broadcast or relayed from a transmitter within this Commonwealth or  
1184 distributed from a location within this Commonwealth;

1185 6. Solicits business in this Commonwealth by mail, if the solicitations are continuous, regular,  
1186 seasonal, or systematic and if the dealer benefits from any banking, financing, debt collection, or  
1187 marketing activities occurring in this Commonwealth or benefits from the location in this  
1188 Commonwealth of authorized installation, servicing, or repair facilities;

1189 7. Is owned or controlled by the same interests which own or control a business located within this  
1190 Commonwealth;

1191 8. Has a franchisee or licensee operating under the same trade name in this Commonwealth if the  
1192 franchisee or licensee is required to obtain a certificate of registration under § 58.1-613; or

1193 9. Owns tangible personal property that is rented or leased to a consumer in this Commonwealth, or  
1194 offers tangible personal property, on approval, to consumers in this Commonwealth.

1195 D. Notwithstanding any other provision of this section, the following shall not be considered to  
1196 determine whether a person who has contracted with a commercial printer for printing in the  
1197 Commonwealth is a "dealer" and whether such person has sufficient contact with the Commonwealth to  
1198 be required to register under § 58.1-613:

1199 1. The ownership or leasing by that person of tangible or intangible property located at the Virginia  
1200 premises of the commercial printer which is used solely in connection with the printing contract with the  
1201 person;

1202 2. The sale by that person of property of any kind printed at and shipped or distributed from the  
1203 Virginia premises of the commercial printer;

1204 3. Activities in connection with the printing contract with the person performed by or on behalf of  
1205 that person at the Virginia premises of the commercial printer; and

1206 4. Activities in connection with the printing contract with the person performed by the commercial  
1207 printer within Virginia for or on behalf of that person.

1208 E. In addition to the jurisdictional standards contained in subsection C of this section, nothing  
1209 contained herein (other than subsection D) shall limit any authority which this Commonwealth may  
1210 enjoy under the provisions of federal law or an opinion of the United States Supreme Court to require  
1211 the collection of sales and use taxes by any dealer who regularly or systematically solicits sales within  
1212 this Commonwealth. Furthermore, nothing contained in subsection C shall require any broadcaster,  
1213 printer, outdoor advertising firm, advertising distributor, or publisher which broadcasts, publishes, or  
1214 displays or distributes paid commercial advertising in this Commonwealth which is intended to be  
1215 disseminated primarily to consumers located in this Commonwealth to report or impose any liability to  
1216 pay any tax imposed under this chapter solely because such broadcaster, printer, outdoor advertising  
1217 firm, advertising distributor, or publisher accepted such advertising contracts from out-of-state advertisers  
1218 or sellers.

1219 § 58.1-639. Transitional provisions.

1220 A. To the extent of the ~~one-half percent increase in the state sales and use tax rate effective August~~  
1221 ~~1, 2004, enacted by the 2004 Special Session I of the Virginia General Assembly~~ *tax paid pursuant to*  
1222 *§ 58.1-603.1, 58.1-603.2, or 58.1-603.3, the Tax Commissioner, upon application of the purchaser in*  
1223 *accordance with regulations promulgated by the Commissioner, shall have the authority to refund state*  
1224 *sales or use taxes paid on purchases of tangible personal property made pursuant to bona fide real estate*  
1225 *construction contracts, contracts for the sale of tangible personal property, and leases, provided that the*  
1226 *real estate construction contract, contract for the sale of tangible personal property or lease is entered*  
1227 *into prior to the date of enactment of such increase in the state sales and use tax rate that the tax under*

§ 58.1-603.1, 58.1-603.2, or 58.1-603.3 is first imposed ; and further provided that the date of delivery of the tangible personal property is ~~on or before October 31, 2004~~ within 120 days after the tax under § 58.1-603.1, 58.1-603.2, or 58.1-603.3 is first imposed in the respective region. 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~~, 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.

#### REGIONAL 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 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.*

§ 58.1-639.2. *Additional hotel tax in certain counties and cities in the Hampton Roads Region.*

*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 Isle of Wright, James City, and York and the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg. 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 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 Hampton Roads Transportation Revenue Fund established under § 33.1-391.17.*

*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. 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 one-half into the treasury of the locality.

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

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

*C. The rate of the tax imposed pursuant to this section, when the consideration or value of the interest exceeds \$100, shall be 50 cents for each \$100 or fraction thereof for such realty that is located in a county or city embraced by the Northern Virginia Transportation Authority, exclusive of the value of any lien or encumbrance remaining thereon at the time of the sale, whether such lien is assumed or the realty is sold subject to such lien or encumbrance.*

*The clerk shall return taxes collected hereunder for realty that is located in the counties and cities embraced by the Northern Virginia Transportation Authority as follows: (i) taxes collected at the rate of 40 cents for each \$100 or fraction thereof as determined pursuant to subsection A shall be returned by the clerk to the state treasury, and such revenues shall be deposited by the Comptroller into the Northern Virginia Transportation Authority Revenue Fund established under § 15.2-4841 as soon as practicable; (ii) taxes collected at the rate of 5 cents for each \$100 or fraction thereof shall be returned by the clerk to the state treasury, and such revenues shall be deposited by the Comptroller into the general fund of the state treasury; and (iii) taxes collected at the rate of 5 cents for each \$100 or fraction thereof shall be returned into the treasury of such county or city in which the realty is located.*

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

§ 58.1-811. Exemptions.

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

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

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

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

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

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

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

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

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

amended;

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

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

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

12. To trustees of a revocable inter vivos trust, when the grantors in the deed and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust 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

1412 ecclesiastical officers mentioned in § 57-16.

1413 H. No recordation tax levied pursuant to this chapter shall be levied on the release of a contractual  
1414 right, if the release is contained within a single deed that performs more than one function, and at least  
1415 one of the other functions performed by the deed is subject to the recordation tax.

1416 I. No recordation tax levied pursuant to this chapter shall be levied on a deed, lease, easement,  
1417 release, or other document recorded in connection with a concession pursuant to the Public-Private  
1418 Transportation Act of 1995 (§ 56-556 et seq.) or similar federal law.

1419 § 58.1-815. U.S. Route 58 Corridor Development Fund.

1420 There is hereby created in the Department of the Treasury a special nonreverting fund which shall be  
1421 a part of the Transportation Trust Fund and which shall be known as the U.S. Route 58 Corridor  
1422 Development Fund, consisting of the first \$40 million of annual collections of the state recordation taxes  
1423 imposed by this chapter; provided, however, this dedication shall not affect the local recordation taxes  
1424 under ~~§§ 58.1-802 B and subsections B and C of § 58.1-802 and § 58.1-814~~. The Fund shall also  
1425 include such other funds as may be appropriated by the General Assembly from time to time, and  
1426 designated for this Fund and all interest, dividends and appreciation which may accrue thereto. Any  
1427 moneys remaining in the Fund at the end of a biennium shall not revert to the General Fund, but shall  
1428 remain in the Fund. Allocations from this Fund may be paid to any authority, locality or commission for  
1429 the purposes specified in § 33.1-221.1:2.

1430 § 58.1-815.1. Northern Virginia Transportation District Fund.

1431 A. There is hereby created in the Department of the Treasury a special nonreverting fund which shall  
1432 be a part of the Transportation Trust Fund and which shall be known as the Northern Virginia  
1433 Transportation District Fund, consisting of transfers pursuant to § 58.1-816 of annual collections of the  
1434 state recordation taxes attributable to the Cities of Alexandria, Fairfax, Falls Church, Manassas, and  
1435 Manassas Park and the Counties of Arlington, Fairfax, Loudoun, and Prince William; however, this  
1436 dedication shall not affect the local recordation taxes under ~~§§ 58.1-802 B and subsections B and C of~~  
1437 ~~§ 58.1-802 and § 58.1-814~~. The Fund shall also include any public rights-of-way use fees appropriated  
1438 by the General Assembly; any state or local revenues, including but not limited to, any funds distributed  
1439 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  
1440 contract between a jurisdiction participating in the Northern Virginia Transportation District Program and  
1441 the Commonwealth Transportation Board; and any other funds as may be appropriated by the General  
1442 Assembly from time to time and designated for this Fund and all interest, dividends and appreciation  
1443 which may accrue thereto. Any moneys remaining in the Fund at the end of a biennium shall not revert  
1444 to the general fund, but shall remain in the Fund, subject to the determination by the Commonwealth  
1445 Transportation Board that a Category 2, 3 or 4 project or projects may be funded.

1446 B. Allocations from this Fund may be paid (i) to any authority, locality or commission for the  
1447 purposes of paying the costs of the Northern Virginia Transportation District Program which consists of  
1448 the following: the Fairfax County Parkway, Route 234 Bypass, Metrorail Capital Improvements  
1449 attributable to Fairfax County including Metro parking expansions, Metro Capital Improvements,  
1450 including the Franconia-Springfield Metrorail Station and new rail car purchases, Route 7 improvements  
1451 in Loudoun County and Fairfax County, the Route 50/Courthouse Road interchange improvements in  
1452 Arlington County, the Route 28/Route 625 interchange improvements in Loudoun County, Metrorail  
1453 capital improvements attributable to the City of Alexandria including the King Street Metrorail Station  
1454 access, Metrorail capital improvements attributable to Arlington County, including Ballston Station  
1455 improvements, Route 15 safety improvements in Loudoun County, Route 28 parallel roads in Loudoun  
1456 County, the Route 28/Sterling Boulevard interchange in Loudoun County, Route 1/Route 123  
1457 interchange improvements in Prince William County, Lee Highway improvements in the City of Fairfax,  
1458 Route 123 improvements in Fairfax County, Telegraph Road improvements in Fairfax County, Route  
1459 123 Occoquan River Bridge, Gallows Road in Fairfax County, Route 1/Route 234 interchange  
1460 improvements in Prince William County, Potomac-Rappahannock Transportation Commission bus  
1461 replacement program, and Dulles Corridor Enhanced Transit program and (ii) for Category 4 projects as  
1462 provided in § 2 of the act or acts authorizing the issuance of Bonds for the Northern Virginia  
1463 Transportation District Program.

1464 C. On or before July 15, 1994, \$19 million shall be transferred to the Fund. Such transfer shall be  
1465 made by the issuance of a treasury loan at no interest in the amount of \$19 million in the event such an  
1466 amount is not included for the Fund in the general appropriation act enacted by the 1994 Session of the  
1467 General Assembly. Such treasury loan shall be repaid from the Commonwealth's portion of the state  
1468 recordation tax imposed by Chapter 8 (§ 58.1-800 et seq.) of Title 58.1 designated for the Fund by this  
1469 section and § 58.1-816.

1470 § 58.1-816.1. Transportation Improvement Program Set-aside Fund.

1471 There is hereby created in the Department of the Treasury a special nonreverting fund which shall be  
1472 a part of the Transportation Trust Fund and which shall be known as the Transportation Improvement  
1473 Program Set-aside Fund ("Set-aside Fund"), consisting of transfers pursuant to § 58.1-816 of annual



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

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

§ 58.1-1724.3. Sales tax on fuel in certain localities.

A. In addition to all other taxes, fees, and other charges imposed on fuels subject to tax under Chapter 22 (§ 58.1-2200 et seq.) of this title, ~~the Hampton Roads Transportation Authority may impose there shall be imposed~~ a sales tax of ~~2%~~ 1% of the retail price of such fuels sold at retail within ~~any county or city embraced by the Authority~~ the Counties of Isle of Wright, James City, and York and the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg. The Commissioner shall ~~transfer deposit~~ the revenues collected to the Hampton Roads Transportation Authority Revenue Fund established under § ~~33.1-391.7~~ § 33.1-391.17. As used in this section "sold at retail" means a sale to a consumer or to any person for any purpose other than resale.

B. The tax imposed under this section shall be subject to the provisions of the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.), except that the exemption provided for motor vehicle fuels under § 58.1-609.1, and the bracket system provided in such act, shall not be applicable.

§ 58.1-1724.6. Disposition of tax revenues.

All taxes paid to the Commissioner pursuant to this article, after subtraction of the direct costs of administration by the Department, shall be ~~transferred to~~ deposited in the Hampton Roads Transportation Authority Revenue Fund established under § 33.1-391.17 on a monthly basis. *For the 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. Such estimated payments into the Fund shall be adjusted for the actual net revenues received in the preceding month.*

§ 58.1-2217. Taxes levied; rate.

A. There is hereby levied a tax at the rate of seventeen and one-half cents per gallon on gasoline and gasohol, *multiplied annually by a Recapture Index. The Recapture Index shall be set at 1.09161 on January 1, 2009, and shall be incremented by a factor of .09161 on July 1 of each year beginning in July 2009 through July 2017. Annually thereafter, the Recapture Index shall be applied on July 1 of each fiscal year at the rate calculated on July 1, 2017. The Commissioner shall determine and publish the rate of tax, based upon the implementation of the Recapture Index and rounded up to the nearest one-tenth of one cent, at least 90 days prior to the effective date of the revised tax rate.*

B. (Contingent expiration date - see Editor's notes) There is hereby levied a tax at the rate of seventeen and one-half cents per gallon on diesel fuel, *multiplied annually by a Recapture Index. The Recapture Index shall be set at 1.09161 on January 1, 2009, and shall be incremented by a factor of .09161 on July 1 of each year beginning in July 2009 through July 2017. Annually thereafter, the Recapture Index shall be applied on July 1 of each fiscal year at the rate calculated on July 1, 2017. The Commissioner shall determine and publish the rate of tax, based upon the implementation of the Recapture Index and rounded up to the nearest one-tenth of one cent, at least 90 days prior to the effective date of the revised tax rate.*

B. (Contingent effective date - see Editor's notes) There is hereby levied a tax at the rate of sixteen cents per gallon on diesel fuel, *multiplied annually by a Recapture Index. The Recapture Index shall be set at 1.09161 on January 1, 2009, and shall be incremented by a factor of .09161 on July 1 of each year beginning in July 2009 through July 2017. Annually thereafter, the Recapture Index shall be applied on July 1 of each fiscal year at the rate calculated on July 1, 2017. The Commissioner shall*

1535 *determine and publish the rate of tax, based upon the implementation of the Recapture Index and*  
1536 *rounded up to the nearest one-tenth of one cent, at least 90 days prior to the effective date of the*  
1537 *revised tax rate.*

1538 C. Blended fuel that contains gasoline shall be taxed at the rate levied on gasoline. Blended fuel that  
1539 contains diesel fuel shall be taxed at the rate levied on diesel fuel.

1540 D. There is hereby levied a tax at the rate of five cents per gallon on aviation gasoline. Any person,  
1541 whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in  
1542 highway vehicles any aviation gasoline shall be liable for the tax at the rate of ~~seventeen and one-half~~  
1543 ~~cents~~ per gallon *provided in subsection A*, along with any penalties and interest that may accrue.

1544 E. (Contingent expiration date - see Editor's notes) There is hereby levied a tax at the rate of five  
1545 cents per gallon on aviation jet fuel purchased or acquired for use by a user of aviation fuel other than  
1546 an aviation consumer. There is hereby levied a tax at the rate of five cents per gallon upon the first  
1547 100,000 gallons of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by  
1548 any aviation consumer in any fiscal year. There is hereby levied a tax at the rate of one-half cent per  
1549 gallon on all aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by an  
1550 aviation consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not licensed  
1551 under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation  
1552 jet fuel taxable under this chapter shall be liable for the tax imposed at the rate of ~~seventeen and~~  
1553 ~~one-half cents~~ per gallon *provided in subsection B*, along with any penalties and interest that may  
1554 accrue.

1555 E. (Contingent effective date - see Editor's notes) There is hereby levied a tax at the rate of five  
1556 cents per gallon on aviation jet fuel purchased or acquired for use by a user of aviation fuel other than  
1557 an aviation consumer. There is hereby levied a tax at the rate of five cents per gallon upon the first  
1558 100,000 gallons of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by  
1559 any aviation consumer in any fiscal year. There is hereby levied a tax at the rate of one-half cent per  
1560 gallon on all aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by an  
1561 aviation consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not licensed  
1562 under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation  
1563 jet fuel taxable under this chapter shall be liable for the tax imposed at the rate of ~~sixteen cents~~ per  
1564 gallon *provided in subsection B*, along with any penalties and interest that may accrue.

1565 F. In accordance with § 62.1-44.34:13, a storage tank fee is imposed on each gallon of gasoline,  
1566 aviation gasoline, diesel fuel (including dyed diesel fuel), blended fuel, and heating oil sold and  
1567 delivered or used in the Commonwealth.

1568 § 58.1-2249. Tax on alternative fuel.

1569 A. (Contingent expiration date - see Editor's notes) There is hereby levied a tax at the rate of  
1570 seventeen and one-half cents per gallon, *multiplied annually by a Recapture Index*, on liquid alternative  
1571 fuel used to operate a highway vehicle by means of a vehicle supply tank that stores fuel only for the  
1572 purpose of supplying fuel to operate the vehicle. There is hereby levied a tax at a rate equivalent to  
1573 seventeen and one-half cents per gallon, *multiplied annually by a Recapture Index*, on all other  
1574 alternative fuel used to operate a highway vehicle. The Commissioner shall determine the equivalent rate  
1575 applicable to such other alternative fuels. *The Recapture Index shall be set at 1.09161 on January 1,*  
1576 *2009, and shall be incremented by a factor of .09161 on July 1 of each year beginning in July 2009*  
1577 *through July 2017. Annually thereafter, the Recapture Index shall be applied on July 1 of each fiscal*  
1578 *year at the rate calculated on July 1, 2017. The Commissioner shall determine and publish the rate of*  
1579 *tax, based upon the implementation of the Recapture Index and rounded up to the nearest one-tenth of*  
1580 *one cent, at least 90 days prior to the effective date of the revised tax rate.*

1581 A. (Contingent effective date - see Editor's notes) There is hereby levied a tax at the rate of sixteen  
1582 cents per gallon, *multiplied annually by a Recapture Index*, on liquid alternative fuel used to operate a  
1583 highway vehicle by means of a vehicle supply tank that stores fuel only for the purpose of supplying  
1584 fuel to operate the vehicle. There is hereby levied a tax at a rate equivalent to sixteen cents per gallon,  
1585 *multiplied annually by a Recapture Index* on all other alternative fuel used to operate a highway vehicle.  
1586 The Commissioner shall determine the equivalent rate applicable to such other alternative fuels. *The*  
1587 *Recapture Index shall be set at 1.09161 on January 1, 2009, and shall be incremented by a factor of*  
1588 *.09161 on July 1 of each year beginning in July 2009 through July 2017. Annually thereafter, the*  
1589 *Recapture Index shall be applied on July 1 of each fiscal year at the rate calculated on July 1, 2017.*  
1590 *The Commissioner shall determine and publish the rate of tax, based upon the implementation of the*  
1591 *Recapture Index and rounded up to the nearest one-tenth of one cent, at least 90 days prior to the*  
1592 *effective date of the revised tax rate.*

1593 B. In addition to any tax imposed by this article, there is hereby levied an annual license tax of fifty  
1594 dollars per vehicle on each highway vehicle that is fueled from a private source if the alternative fuels  
1595 tax levied under this article has not been paid on fuel used in the vehicle. If such a highway vehicle is  
1596 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~~ *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 Commonwealth Transportation Future Fund established under § 33.1-23.1:01*, 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

1658 equal to one percent of a sum to be calculated as follows: the tax revenues collected pursuant to this  
1659 chapter, at the tax rates in effect on December 31, 1986, less refunds authorized by this chapter and less  
1660 taxes collected for aviation fuels.

1661 F. The additional revenues, less any additional refunds authorized, generated by increases in the rates  
1662 of taxes under this chapter pursuant to enactments of the 2007 Session of the General Assembly shall be  
1663 collected pursuant to Article 4 of this chapter and deposited into the Highway Maintenance and  
1664 Operating Fund.

1665 G. *The revenues, less any additional refunds authorized and the direct costs of administration by the*  
1666 *Department in collection such additional revenues, generated by increases in the rates of taxes under*  
1667 *this chapter pursuant to enactments of the 2008 Special Session II of the Virginia General Assembly*  
1668 *shall be collected pursuant to Article 4 (§ 58.1-2230 et seq.) of this chapter and deposited into the*  
1669 *Commonwealth Transportation Future Fund established pursuant to § 33.1-23.1:01.*

1670 § 58.1-2289. (Contingent effective date - see Editor's notes) Disposition of tax revenue generally.

1671 A. Unless otherwise provided in this section, all taxes and fees, including civil penalties, collected by  
1672 the Commissioner pursuant to this chapter, less a reasonable amount to be allocated for refunds, shall be  
1673 promptly paid into the state treasury and shall constitute special funds within the Commonwealth  
1674 Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for  
1675 use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds  
1676 shall accrue to these funds. Except as provided in § 33.1-23.03:1, no portion of the revenue derived  
1677 from taxes collected pursuant to §§ 58.1-2217, 58.1-2249 or § 58.1-2701, and remaining after authorized  
1678 refunds for nonhighway use of fuel, shall be used for any purpose other than the construction,  
1679 reconstruction or maintenance of the roads and projects comprising the State Highway System, the  
1680 Interstate System and the secondary system of state highways and expenditures directly and necessarily  
1681 required for such purposes, including the retirement of revenue bonds.

1682 Revenues collected under this chapter may be also used for (i) contributions toward the construction,  
1683 reconstruction or maintenance of streets in cities and towns of such sums as may be provided by law  
1684 and (ii) expenditures for the operation and maintenance of the Department of Transportation, the  
1685 Department of Rail and Public Transportation, the Department of Aviation, the Virginia Port Authority,  
1686 and the Department of Motor Vehicles as may be provided by law.

1687 The Governor is hereby authorized to transfer out of such fund an amount necessary for the  
1688 inspection of gasoline and motor grease measuring and distributing equipment, and for the inspection  
1689 and analysis of gasoline for purity.

1690 B. ~~The~~ *Except as provided in subsection F, the tax collected on each gallon of aviation fuel sold and*  
1691 *delivered or used in this Commonwealth, less refunds, shall be paid into a special fund of the state*  
1692 *treasury. Proceeds of this special fund within the Commonwealth Transportation Fund shall be disbursed*  
1693 *upon order of the Department of Aviation, on warrants of the Comptroller, to defray the cost of the*  
1694 *administration of the laws of this Commonwealth relating to aviation, for the construction, maintenance*  
1695 *and improvement of airports and landing fields to which the public now has or which it is proposed*  
1696 *shall have access, and for the promotion of aviation in the interest of operators and the public generally.*

1697 C. One-half cent of the tax collected on each gallon of fuel on which ~~the~~ a refund has been paid at  
1698 ~~the rate of seventeen cents per gallon, or in the case of diesel fuel, fifteen and one-half cents per gallon~~  
1699 ~~for gasoline, gasohol, diesel fuel, blended fuel, or alternative fuel,~~ for fuel consumed in tractors and  
1700 unlicensed equipment used for agricultural purposes shall be paid into a special fund of the state  
1701 treasury, known as the Virginia Agricultural Foundation Fund, to be disbursed to make certain refunds  
1702 and defray the costs of the research and educational phases of the agricultural program, including  
1703 supplemental salary payments to certain employees at Virginia Polytechnic Institute and State University,  
1704 the Department of Agriculture and Consumer Services and the Virginia Truck and Ornamentals Research  
1705 Station, including reasonable expenses of the Virginia Agricultural Council.

1706 D. One and one-half cents of the tax collected on each gallon of fuel used to propel a commercial  
1707 watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of  
1708 the state treasury to be made available to the Board of Game and Inland Fisheries until expended for the  
1709 purposes provided generally in subsection C of § 29.1-701, including acquisition, construction,  
1710 improvement and maintenance of public boating access areas on the public waters of this  
1711 Commonwealth and for other activities and purposes of direct benefit and interest to the boating public  
1712 and for no other purpose. However, one and one-half cents per gallon on fuel used by commercial  
1713 fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be  
1714 used for the construction, repair, improvement and maintenance of the public docks of this  
1715 Commonwealth used by said commercial watercraft. Any expenditures for the acquisition, construction,  
1716 improvement and maintenance of the public docks shall be made according to a plan developed by the  
1717 Virginia Marine Resources Commission.

1718 From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for  
1719 the propelling of watercraft, after deduction for lawful refunds *and after deduction for the revenues*

deposited into the Commonwealth Transportation Future Fund established under § 33.1-23.1:01, 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 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 Commonwealth Transportation Future Fund established pursuant to § 33.1-23.1:01.*

§ 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 three-quarters* 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 three-quarters* 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 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;
4. Registered to any member of the Mattaponi, Pamunkey, or Chickahominy Indian tribes or any other recognized Indian tribe of the Commonwealth living on the tribal reservation;

5. Transferred incidental to repossession under a recorded lien and ownership is transferred to the lienholder;

6. A manufactured home permanently attached to real estate and included in the sale of real estate;

7. A gift to the spouse, son, or daughter of the transferor. With the exception of a gift to a spouse, this exemption shall not apply to any unpaid obligation assumed by the transferee incidental to the transfer;

8. Transferred from an individual or partnership to a corporation or limited liability company or from a corporation or limited liability company to an individual or partnership if the transfer is incidental to the formation, organization or dissolution of a corporation or limited liability company in which the individual or partnership holds the majority interest;

9. Transferred from a wholly owned subsidiary to the parent corporation or from the parent corporation to a wholly owned subsidiary;

10. Being registered for the first time in this Commonwealth and the applicant holds a valid, assignable title or registration issued to him by another state or a branch of the United States Armed Forces and (i) has owned the vehicle for longer than 12 months or (ii) has owned the vehicle for less than 12 months and provides evidence of a sales tax paid to another state. However, when a vehicle has been purchased by the applicant within the last 12 months and the applicant is unable to provide evidence of a sales tax paid to another state, the applicant shall pay the Virginia sales tax based on the fair market value of the vehicle at the time of registration in Virginia;

11. a. Titled in a Virginia or non-Virginia motor vehicle dealer's name for resale; or

b. Titled in the name of an automotive manufacturer having its headquarters in Virginia, except for any commercially leased vehicle that is not described under subdivision 3 of § 46.2-602.2. For purposes of this subdivision, "automotive manufacturer" and "headquarters" means the same as such terms are defined in § 46.2-602.2;

12. A motor vehicle having seats for more than seven passengers and sold to an urban or suburban bus line the majority of whose passengers use the buses for traveling a distance of less than 40 miles, one way, on the same day;

13. Purchased in the Commonwealth by a nonresident and a Virginia title is issued for the sole purpose of recording a lien against the vehicle if the vehicle will be registered in a state other than Virginia;

14. A motor vehicle designed for the transportation of 10 or more passengers, purchased by and for the use of a church conducted not for profit;

15. Loaned or leased to a private nonprofit institution of learning, for the sole purpose of use in the instruction of driver's education when such education is a part of such school's curriculum for full-time students;

16. Sold to an insurance company or local government group self-insurance pool, created pursuant to § 15.2-2703, for the sole purpose of disposition when such company has paid the registered owner of such vehicle a total loss claim;

17. Owned and used for personal or official purposes by accredited consular or diplomatic officers of foreign governments, their employees or agents, and members of their families, if such persons are nationals of the state by which they are appointed and are not citizens of the United States;

18. A self-contained mobile computerized axial tomography scanner sold to, rented or used by a nonprofit hospital or a cooperative hospital service organization as described in § 501 (e) of the United States Internal Revenue Code;

19. A motor vehicle having seats for more than seven passengers and sold to a restricted common carrier or common carrier of passengers;

20. Beginning July 1, 1989, a self-contained mobile unit designed exclusively for human diagnostic or therapeutic service, sold to, rented to, or used by a nonprofit hospital, or a cooperative hospital service organization as described in § 501 (e) of the United States Internal Revenue Code, or a nonprofit corporation as defined in § 501 (c) (3) of the Internal Revenue Code, established for research in, diagnosis of, or therapy for human ailments;

21. Transferred, as a gift or through a sale to an organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code, provided the motor vehicle is not titled and tagged for use by such organization;

22. A motor vehicle sold to an organization which is exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and which is organized for the primary purpose of distributing food, clothing, medicines and other necessities of life to, and providing shelter for, needy persons in the United States and throughout the world;

23. A truck, tractor truck, trailer, or semitrailer, as severally defined in § 46.2-100, except trailers and 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 renter; (iii) effective January 1, 1987, an amount equivalent to the net additional revenues generated by enactments of the 1986 Special Session of the Virginia General Assembly which amended §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402 and this section shall be distributed to and paid into the Transportation Trust Fund, a special fund within the Commonwealth Transportation Fund, and are hereby appropriated to the Commonwealth Transportation Board for transportation needs; (iv) except as otherwise provided in clause (iii) of this sentence, all moneys collected from the tax on the gross proceeds from the rental in Virginia of any motor vehicle pursuant to subdivision A 3 of § 58.1-2402 at the tax rate in effect on December 31, 1986, shall be paid by the Commissioner into the state treasury and shall be paid into the Rail Enhancement Fund established by § 33.1-221.1:1.1; ~~and~~ (v) all additional revenues resulting from the fee imposed under subdivision A 5 of § 58.1-2402 as enacted by the 2004 Session of the General Assembly shall be used to pay the debt service on the bonds issued by the Virginia Public Building Authority for the Statewide Agencies Radio System (STARS) for the Department of State Police pursuant to the authority granted by the 2004 Session of the General Assembly; *and (vi) an amount equivalent to the additional revenues generated by enactments of the 2008 Special Session II of the Virginia General Assembly for increases in the rates of taxes imposed under subdivisions A 1 and A 2*

1904 of § 58.1-2402 (net of the applicable portion of any refunds and the direct costs of administration by the  
 1905 Department in collecting such revenues) shall be deposited into the Commonwealth Transportation  
 1906 Future Fund established under § 33.1-23.1:01.

1907 B. As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation  
 1908 Trust Fund pursuant to clause (iii) of subsection A of this section, an aggregate of 4.2 percent shall be  
 1909 set aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the  
 1910 Commonwealth Airport Fund; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7  
 1911 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit  
 1912 Fund.

1913 § 58.1-2701. (Contingent expiration date - see Editor's notes) Amount of tax.

1914 A. Except as provided in subsection B, every motor carrier shall pay a road tax *at a rate per gallon*  
 1915 equivalent to ~~\$0.21 three and one-half cents~~ *per gallon greater than the total tax imposed on each*  
 1916 *gallon of diesel fuel under subsection B of § 58.1-2217* calculated on the amount of motor fuel, diesel  
 1917 fuel or liquefied gases (which would not exist as liquids at a temperature of sixty degrees Fahrenheit  
 1918 and a pressure of 14.7 pounds per square inch absolute), used in its operations within the  
 1919 Commonwealth.

1920 The tax imposed by this chapter shall be in addition to all other taxes of whatever character imposed  
 1921 on a motor carrier by any other provision of law.

1922 B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles  
 1923 that are not registered under the International Registration Plan shall pay a fee of ~~\$150~~ \$200 per year  
 1924 for each qualified highway vehicle. The fee is due and payable when the vehicle registration fees are  
 1925 paid pursuant to the provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2.

1926 If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due  
 1927 at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration  
 1928 expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the  
 1929 registration fee paid is authorized by law.

1930 C. All taxes and fees paid under the provisions of this chapter shall be credited to the Highway  
 1931 Maintenance and Operating Fund, a special fund within the Commonwealth Transportation Fund.

1932 § 58.1-2701. (Contingent effective date - see Editor's notes) Amount of tax.

1933 A. Except as provided in subsection B, every motor carrier shall pay a road tax *at a rate per gallon*  
 1934 equivalent to ~~nineteen and one-half cents~~ *three and one-half cents per gallon greater than the total tax*  
 1935 *imposed on each gallon of diesel fuel under subsection B of § 58.1-2217* calculated on the amount of  
 1936 motor fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of sixty  
 1937 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute), used in its operations within  
 1938 the Commonwealth.

1939 The tax imposed by this chapter shall be in addition to all other taxes of whatever character imposed  
 1940 on a motor carrier by any other provision of law.

1941 B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles  
 1942 that are not registered under the International Registration Plan shall pay a fee of ~~\$100~~ \$150 per year  
 1943 for each qualified highway vehicle. The fee is due and payable when the vehicle registration fees are  
 1944 paid pursuant to the provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2.

1945 If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due  
 1946 at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration  
 1947 expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the  
 1948 registration fee paid is authorized by law.

1949 C. All taxes and fees paid under the provisions of this chapter shall be credited to the Highway  
 1950 Maintenance and Operating Fund, a special fund within the Commonwealth Transportation Fund.

1951 § 58.1-2706. Credit for payment of motor fuel, diesel fuel or liquefied gases tax.

1952 A. Every motor carrier subject to the road tax shall be entitled to a credit on such tax *at a rate per*  
 1953 *gallon equivalent to seventeen and one-half cents per gallon the total tax imposed on each gallon of*  
 1954 *diesel fuel under subsection B of § 58.1-2217* on all motor fuel, diesel fuel and liquefied gases  
 1955 purchased by such carrier within the Commonwealth for use in its operations either within or without  
 1956 the Commonwealth and upon which the motor fuel, diesel fuel or liquefied gases tax imposed by the  
 1957 laws of the Commonwealth has been paid by such carrier. Evidence of the payment of such tax in such  
 1958 form as may be required by, or is satisfactory to, the Department shall be furnished by each carrier  
 1959 claiming the credit herein allowed.

1960 B. When the amount of the credit to which any motor carrier is entitled for any quarter exceeds the  
 1961 amount of the tax for which such carrier is liable for the same quarter, the excess may: (i) be allowed as  
 1962 a credit on the tax for which such carrier would be otherwise liable for any of the eight succeeding  
 1963 quarters or (ii) be refunded, upon application, duly verified and presented and supported by such  
 1964 evidence as may be satisfactory to the Department.

1965 C. The Department may allow a refund upon receipt of proper application and review. It shall be at



the discretion of the Department to determine whether an audit is required.

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

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

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

§ 58.1-3221.3. Classification of certain commercial and industrial real property and taxation of such property by certain localities included in the Northern Virginia Transportation Authority and in the Hampton Roads region.

A. Beginning January 1, 2008, and solely for the purposes of imposing the tax authorized pursuant to this section, in the counties and cities that are embraced by the Northern Virginia Transportation Authority, and ~~the Hampton Roads Transportation Authority in the Counties of Isle of Wright, James City, and York and the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg~~, all real property used for or zoned to permit commercial or industrial uses is hereby declared to be a separate class of real property for local taxation. Such classification of real property shall exclude all residential uses and all multifamily residential uses, including but not limited to single family residential units, cooperatives, condominiums, townhouses, apartments, or homes in a subdivision when leased on a unit by unit basis even though these units may be part of a larger building or parcel of real estate containing more than four residential units.

B. In addition to all other taxes and fees permitted by law, (i) the governing body of any locality embraced by the Northern Virginia Transportation Authority may, by ordinance, annually impose on all real property in the locality specially classified in subsection A: an amount of real property tax, in addition to such amount otherwise authorized by law, at a rate not to exceed \$0.25 per \$100 of assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit commercial or industrial uses; and (ii) ~~the governing body of any locality embraced by the Hampton Roads Transportation Authority each of the Counties of Isle of Wright, James City, and York and the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg~~ may, by ordinance, annually impose on all real property in the locality specially classified in subsection A: an amount of real property tax, in addition to such amount otherwise authorized by law, at a rate not to exceed \$0.10 per \$100 of assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit commercial or industrial uses. The authority granted in this subsection shall be subject to the following conditions:

(1) Upon appropriation, all revenues generated from the additional real property tax imposed shall be used exclusively for transportation purposes that benefit the locality imposing the tax; and

(2) The additional real property tax imposed shall be levied, administered, enforced, and collected in the same manner as set forth in Subtitle III of Title 58.1 for the levy, administration, enforcement, and collection of local taxes. In addition, the local assessor shall separately assess and set forth upon the locality's land book the fair market value of that portion of property that is defined as a separate class of real property for local taxation in accordance with the provisions of this section.

C. Beginning January 1, 2008, in lieu of the authority set forth in subsections A and B above and solely for the purposes of imposing the tax authorized pursuant to this section, in the counties and cities embraced by the Northern Virginia Transportation Authority and ~~the Hampton Roads Transportation Authority in the Counties of Isle of Wright, James City, and York and the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg~~, all real property used for or zoned to permit commercial or industrial uses is hereby declared to be a separate class of real property for local taxation. Such classification of real property shall exclude all residential uses and all multifamily residential uses, including but not limited to single family residential units, cooperatives, condominiums, townhouses, apartments, or homes in a subdivision when leased on a unit by unit basis even though these units may be part of a larger building or parcel of real estate containing more than four residential units.

D. In addition to all other taxes and fees permitted by law, (i) the governing body of any locality embraced by the Northern Virginia Transportation Authority may, by ordinance, create within its boundaries, one or more special regional transportation tax districts and, thereafter, may, by ordinance, impose upon the real property located in special regional transportation tax districts specially classified in subsection C within such special regional transportation tax districts: an amount of real property tax, in addition to such amounts otherwise authorized by law, at a rate not to exceed \$0.25 per \$100 of

assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit commercial or industrial uses; and, (ii) the governing body of any locality embraced by the Hampton Roads Transportation Authority each of the Counties of Isle of Wright, James City, and York and the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg may, by ordinance, create within its boundaries, one or more special regional transportation tax districts and, thereafter, may, by ordinance, impose upon the real property specially classified in subsection C within such special regional transportation tax districts: an amount of real property tax, in addition to such amounts otherwise authorized by law, at a rate not to exceed \$0.10 per \$100 of assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit commercial or industrial uses. The authority granted in this subsection shall be subject to the following conditions:

(1) Notwithstanding any other provisions of law to the contrary, upon appropriation, all revenues generated from the additional real property taxes imposed in accordance with subsection C and this subsection shall be used for transportation purposes that benefit the special regional transportation tax district to which such revenue is attributable;

(2) Any local ordinance adopted in accordance with the provisions of subsection C and this subsection shall include the requirement that the additional real property taxes so authorized are to be imposed annually in accordance with applicable law;

(3) Any locality that imposes the additional real property taxes set forth in subsections A and B shall not be permitted to also impose the additional real property taxes set forth in subsection C and this subsection. In addition, any locality electing to impose the additional real property taxes on all real property located in such locality that is specially classified in subsections A and B must do so in the manner prescribed in subsections A and B and not by creation of a special transportation tax district as set forth in subsection C and this subsection. The creation of such special regional transportation tax districts shall not, however, affect the authority of a locality to establish tax districts pursuant to other provisions of law;

(4) The total revenues generated from the additional real property taxes imposed in accordance with subsection C and this subsection shall not be less than 85% of the revenues estimated to be generated when imposing the additional real property taxes in accordance with subsections A and B at the rate of \$0.25 per \$100 of assessed value in any locality embraced by the Northern Virginia Transportation Authority and at the rate of \$0.10 per \$100 of assessed value in any locality embraced by the Hampton Roads Transportation Authority the Counties of Isle of Wright, James City, and York and the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg;

(5) The additional real property taxes imposed pursuant to subsection C and this subsection shall be levied, administered, enforced, and collected, in the same manner as set forth in Subtitle III of Title 58.1 for the levy, administration, enforcement, and collection of all local taxes. In addition, the local assessor shall separately assess and set forth upon the locality's land book the fair market value of that portion of property that is defined as separate class of real property for local taxation in accordance with the provisions of this section.

**3. That the Commonwealth Transportation Board is authorized to issue bonds to fund transportation projects throughout the Commonwealth as follows:**

*§ 1. Title. This act shall be known and may be cited as the "Commonwealth Mass Transit Capital Projects Bond Act of 2008."*

*§ 2. The Commonwealth Transportation Board is hereby authorized, by and with the consent of the Governor, to issue, pursuant to the provisions of the State Revenue Bond Act (§ 33.1-267 et seq. of the Code of Virginia) as amended from time to time, revenue obligations of the Commonwealth to be designated "Commonwealth of Virginia Mass Transit Capital Projects Revenue Bonds, Series .." at one or more times in an aggregate principal amount not to exceed \$100,000,000, after all costs.*

*§ 3. The net proceeds of the Bonds shall be used exclusively for the purpose of providing funds for paying the costs incurred or to be incurred for construction or funding of mass transit public transportation capital projects pursuant to § 33.1-23.4:02 of the Code of Virginia, including but not limited to environmental and engineering studies, rights-of-way acquisition, improvements to modes of mass transit, acquisition including but not limited to acquisition of mass transit capital, construction and related improvements, and any financing costs and other financing expenses. Such costs may include the payment of interest on the Bonds for a period during construction and not exceeding one year after completion of construction of the projects. Such costs may also include the payment of interest on the bonds for a period not exceeding one year after acquisition of mass transit capital.*

*§ 4. The proceeds of the Bonds, including any premium received on the sale thereof, shall be made available by the Commonwealth Transportation Board to pay costs of the projects and, where appropriate, may be paid to any authority, locality, commission, or other entity for the purposes of*

paying for costs of the projects. The proceeds of the Bonds may be used together with any federal, local, or private funds that may be made available for such purpose. The proceeds of the Bonds, together with any investment earnings thereon, may, at the discretion of the Commonwealth Transportation Board, secure the payment of principal or purchase price of and redemption premium, if any, and interest on the Bonds.

§ 5. The terms and structure of each issue of the Bonds shall be determined by the Commonwealth Transportation Board, subject to approval by the Treasury Board in accordance with § 2.2-2416 of the Code of Virginia, as amended. The Bonds of each issue shall be dated; shall be issued in a principal amount (subject to the limitations set forth in § 2); shall bear interest at such rate or rates, which may be fixed, adjustable, variable or a combination thereof and may be determined by a formula or other method; shall mature at such time or times not exceeding 15 years from their date or dates; and may be made subject to purchase or redemption before their maturity or maturities, at such price or prices and under such terms and conditions, all as may be determined by the Commonwealth Transportation Board. The Commonwealth Transportation Board shall determine the form of the Bonds, whether the Bonds are certificated or uncertificated, and fix the authorized denomination or denominations of the Bonds and the place or places of payment of principal or purchase price of, and redemption premium, if any, and interest on the Bonds, which may be at the office of the State Treasurer or any bank or trust company within or without the Commonwealth. The principal or purchase price of, and redemption premium, if any, and interest on the Bonds shall be made payable in lawful money of the United States of America. Each issue of the Bonds may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments of principal or purchase price of and redemption premium, if any, and interest on such Bonds.

The Commonwealth Transportation Board may sell the Bonds from time to time at public or private sale, by competitive bidding, negotiated sale, or private placement, for such price or prices as it may determine to be in the best interests of the Commonwealth.

§ 6. The Bonds shall be signed on behalf of the Commonwealth Transportation Board by the chairman or vice-chairman of the Commonwealth Transportation Board, or shall bear the facsimile signature of such officer, and shall bear the official seal of the Board, which shall be attested to by the manual or facsimile signature of the secretary or assistant secretary of the Commonwealth Transportation Board. In the event that the Bonds shall bear the facsimile signature of the chairman or vice-chairman of the Commonwealth Transportation Board, such Bonds shall be signed by such administrative assistant as the chairman of the Transportation Board shall determine or by any registrar/paying agent who may be designated by the Commonwealth Transportation Board. In case any officer whose signature or a facsimile of whose signature appears on any Bonds shall cease to be such officer before the delivery of such Bonds, such signature or facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in office until such delivery.

§ 7. All expenses incurred under this Act or in connection with the issuance of the Bonds shall be paid from the proceeds of such Bonds or from any available funds as the Commonwealth Transportation Board shall determine.

§ 8. The Commonwealth Transportation Board is hereby authorized to borrow money at such rate or rates through the execution and issuance of the Bonds for the same, but only in the following circumstances and under the following conditions:

a. In anticipation of the sale of the Bonds, the issuance of which shall have been authorized by the Commonwealth Transportation Board and shall have been approved by the Governor, if the Commonwealth Transportation Board shall deem it advisable to postpone the issuance of such Bonds; or

b. For the renewal of any anticipation notes herein authorized.

§ 9. The proceeds of the Bonds and of any anticipation notes herein authorized (except the proceeds of the Bonds the issuance of which has been anticipated by such anticipation notes) shall be placed by the State Treasurer in a special fund in the state treasury, or may be placed with a trustee in accordance with § 33.1-283 of the Code of Virginia, as amended, and shall be disbursed only for the purpose for which such Bonds and such anticipation notes shall be issued; provided, however, that proceeds derived from the sale of the Bonds herein authorized shall be first used in the payment of any anticipation notes that may have been issued in anticipation of the sale of such Bonds and any renewals of such Bonds. The proceeds of the Bonds and of any anticipation notes herein authorized, together with any investment earnings thereon, shall not be taken into account in computing, and shall be in addition to funds allocated pursuant to the allocation formula set forth in § 33.1-23.03:2 of the Code of Virginia, as amended.

§ 10. The Commonwealth Transportation Board is hereby authorized to receive any other funds that may be made available to pay costs of the projects and, subject to appropriation, to make available the same to the payment of the principal or purchase price of, and redemption premium, if any, and interest

2150 on the Bonds authorized hereby and to enter into the appropriate agreements to allow for those funds to  
2151 be paid into the state treasury, or to a trustee in accordance with § 33.1-283 of the Code of Virginia, as  
2152 amended, to pay a part of the costs of the projects or to pay principal or purchase price of, and  
2153 redemption premium, if any, and interest on the Bonds.

2154 § 11. The Commonwealth Transportation Board, in connection with the issuance of the Bonds, shall  
2155 establish a fund in accordance with § 33.1-286 of the Code of Virginia, as amended, either in the state  
2156 treasury or with a trustee in accordance with § 33.1-283 of the Code of Virginia, as amended, which  
2157 shall secure and be used for the payment of the Bonds to the credit of which there shall be deposited  
2158 such amounts, subject to their appropriation therefor by the General Assembly, as are required to pay  
2159 principal or purchase price of, and redemption premium, if any, and interest on the Bonds, as and when  
2160 due and payable, (i) from the revenues deposited into the Mass Transit Improvement Fund pursuant to  
2161 § 33.1-23.03:2.1; (ii) to the extent required, from revenues legally available from the Transportation  
2162 Trust Fund; and (iii) to the extent required, from any legally available funds.

2163 § 12. Bond proceeds and moneys in any reserve funds and sinking funds in respect of the Bonds  
2164 shall be invested by the State Treasurer in accordance with the provisions of general law relating to the  
2165 investment of such funds belonging to or in the control of the Commonwealth, or by a trustee in  
2166 accordance with § 33.1-283 of the Code of Virginia, as amended.

2167 § 13. The interest income from and any profit made on the sale of the obligations issued under the  
2168 provisions of this Act shall at all times be free and exempt from taxation by the Commonwealth and by  
2169 any municipality, county, or other political subdivision thereof.

2170 § 14. All obligations issued under the provisions of this Act are hereby made securities in which all  
2171 persons and entities listed in § 33.1-280 of the Code of Virginia, as amended, may properly and legally  
2172 invest funds under their control.

2173 4. That the revenues generated by the provisions of this act shall not be used to calculate or  
2174 reduce the share of local, federal, and state revenues otherwise available to participating  
2175 jurisdictions. Further, such revenues and moneys shall not be included in any computation of, or  
2176 formula for, a locality's ability to pay for public education, upon which appropriations of state  
2177 revenues to local governments for public education are determined.

2178 5. That on an ongoing basis the Commonwealth Transportation Board shall review all projects on  
2179 the six-year improvement plan pursuant to § 33.1-12 of the Code of Virginia to determine which  
2180 projects are most likely to be successfully accomplished through toll-funded construction, including  
2181 but not limited to construction through the Public-Private Transportation Act (§ 56-556 et seq. of  
2182 the Code of Virginia) and financed by private sector funding, which shall be paid for through toll  
2183 revenues from these projects. The Board shall evaluate all projects based on factors including, but  
2184 not limited to, private sector interest, ability of toll revenue to provide necessary revenue for  
2185 construction and on-going maintenance of the individual project, road segments appropriate for  
2186 congestion pricing and High-Occupancy Tolling (HOT) lane additions, and new road segments that  
2187 would provide existing non-tolled alternative routes. It is the intent of the General Assembly that  
2188 the Board shall identify a minimum of thirty percent of the total value of projects on the six-year  
2189 improvement plan that are available for toll-funding construction and that the Secretary of  
2190 Transportation shall take all necessary actions to promote and develop private sector interest in  
2191 constructing such projects.

2192 6. That the liabilities, assets, responsibilities, and functions of the Hampton Roads Transportation  
2193 Authority [former Chapter 10.2 (§ 33.1-391.6 et seq.) of Title 33.1 of the Code of Virginia], which  
2194 Authority has been abolished pursuant to the ninth enactment clause of this act, shall be  
2195 transferred as follows:

2196 (i) Any outstanding obligations of the Authority under any contract entered into by the Authority  
2197 prior to such abolition shall be transferred to and assumed by the Virginia Department of  
2198 Transportation, provided that any outstanding liabilities or debts of the Authority shall be satisfied  
2199 from funds in the Hampton Roads Transportation Revenue Fund established under § 33.1-391.17  
2200 of the Code of Virginia;

2201 (ii) Any and all planning responsibilities vested in the Authority prior to such abolition shall be  
2202 transferred to and assumed by the Hampton Roads Metropolitan Planning Organization;

2203 (iii) Any assets of the Authority shall be deposited into the state treasury and as soon as  
2204 practicable after such deposit shall then be deposited by the Comptroller into the Hampton Roads  
2205 Transportation Revenue Fund; and

2206 (iv) In all other regards, the Commonwealth, and where appropriate the Commonwealth  
2207 Transportation Board, shall be the successor in interest to the Hampton Roads Transportation  
2208 Authority.

2209 7. That the fifth enactment of Chapter 896 of the Acts of Assembly of 2007 is amended and  
2210 reenacted as follows:

2211 5. That the Hampton Roads Authority established under ~~§ 33.1-391.7~~ of the Code of Virginia

*Metropolitan Planning Organization* shall develop as part of a long-range plan quantifiable measures and achievable goals for the area collectively embraced by the ~~Authority~~ *Counties of Isle of Wight, James City, and York and the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg*, relating to, but not limited to, congestion reduction and safety, transit and high-occupancy vehicle (HOV) usage, job-to-housing ratios, job and housing access to transit and pedestrian facilities, air quality, and per-capita vehicle miles traveled. In addition, the Northern Virginia Transportation Authority established under § 15.2-4830 of the Code of Virginia shall also develop as part of a long-range plan quantifiable measures and achievable goals for the area embraced by the Authority relating to, but not limited to, congestion reduction and safety, transit and high-occupancy vehicle (HOV) usage, job-to-housing ratios, job and housing access to transit and pedestrian facilities, air quality, and per-capita vehicle miles traveled. Such goals shall be subject to the approval of the Commonwealth Transportation Board on a biennial basis.

8. That the sixteenth enactment of Chapter 896 of the Acts of Assembly of 2007 is amended and reenacted as follows:

16. That, as provided under ~~§ 58.1-3221.2~~ *§ 58.1-3221.3 of the Code of Virginia*, the tax authorized thereunder may only be imposed by a city or county embraced by the Northern Virginia Transportation Authority established under § 15.2-4830, or a ~~city or county embraced by the Hampton Roads Transportation Authority established under § 33.1-391.7 by the governing body of each of the Counties of Isle of Wight, James City, and York and the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg.~~

9. That §§ 2.2-2817.1, 46.2-755.1, 46.2-755.2, 46.2-1167.1, 58.1-625.1, 58.1-802.1, 58.1-1724.7, 58.1-2402.1, and 58.1-3825.1; Chapter 10.2 (§§ 33.1-391.6 through 33.1-391.15) of Title 33.1; and Article 22 (§ 58.1-540 through 58.1-549) of Chapter 3 of Title 58.1 of the Code of Virginia are repealed.

10. That the sixth, thirteenth, fourteenth, fifteenth, eighteenth and nineteenth enactment clauses of Chapter 896 of the Acts of Assembly of 2007 are repealed.

11. That the General Assembly hereby appropriates (i) the net revenues generated and collected pursuant to §§ 58.1-603.1 and 58.1-639.1 of the Code of Virginia and the net revenues generated and collected by the increase in the rate of tax under § 58.1-802 of the Code of Virginia pursuant to the provisions of this act in accordance with and for the purposes set forth in § 15.2-4841 of the Code of Virginia, (ii) the net revenues generated pursuant to §§ 58.1-603.2, 58.1-639.2, and 58.1-1724 of the Code of Virginia pursuant to the provisions of this act in accordance with and for the purposes set forth in § 33.1-391.17 of the Code of Virginia and for satisfying any outstanding liabilities or debts as provided in clause (i) of the sixth enactment of this act, (iii) the net revenues generated and collected by the increase in the rate of tax under § 58.1-2217 and 58.1-2402 of the Code of Virginia pursuant to the provisions of this act in accordance with and for the purposes set forth in § 33.1-23.1:01 of the Code of Virginia, and (iv) the net revenues, if any generated and collected pursuant to § 58.1-603.3 of the Code of Virginia pursuant to the provisions of this act in accordance with and for the purposes set forth in such section.

12. That the Secretary of Transportation of the Commonwealth of Virginia and the Commonwealth Transportation Board shall, in an expeditious manner, take all steps necessary to obtain approval from the federal government for the placement of tolls on certain sections of Interstate highways in the Commonwealth for the purpose of generating revenues to apply towards the ongoing maintenance needs of these sections of Interstate.

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