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SENATE BILL NO. 684

Offered January 22, 2010

A *BILL to amend and reenact §§ 33.1-23.03:1, 33.1-23.03:10, 58.1-638, 58.1-2217, 58.1-2249, 58.1-2289, as it is currently effective and as it may become effective, 58.1-2402, 58.1-2425, 58.1-2701, as it is currently effective and as it may become effective, and 58.1-2706 of the Code of Virginia, to amend the Code of Virginia by adding in Title 33.1 a chapter numbered 10.3, consisting of sections numbered 33.1-391.17, 33.1-391.18, and 33.1-391.19, by adding in Chapter 22 of Title 58.1 an article numbered 8.1, consisting of a section numbered 58.1-2288.1, and by adding a section numbered 67-301, relating to funding for transportation.*

Patron—Miller, J.C.

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-23.03:1, 33.1-23.03:10, 58.1-638, 58.1-2217, 58.1-2249, 58.1-2289, as it is currently effective and as it may become effective, 58.1-2402, 58.1-2425, 58.1-2701, as it is currently effective and as it may become effective, and 58.1-2706 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Title 33.1 a chapter numbered 10.3, consisting of sections numbered 33.1-391.17, 33.1-391.18, and 33.1-391.19, by adding in Chapter 22 of Title 58.1 an article numbered 8.1, consisting of a section numbered 58.1-2288.1, and by adding a section numbered 67-301 as follows:

§ 33.1-23.03:1. Transportation Trust Fund.

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

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

2. [Repealed.]

3. The additional revenues generated by enactments of Chapters 11, 12 and 15 of the Acts of Assembly, 1986 Special Session, and designated for this fund. *The Fund shall also consist of the revenues deposited to the Fund pursuant to § 67-301.*

4. Tolls and other revenues derived from the projects financed or refinanced pursuant to this title which are payable into the state treasury and tolls and other revenues derived from other transportation projects, which may include upon the request of the applicable appointed governing body, as soon as their obligations have been satisfied, such tolls and revenue derived for transportation projects pursuant to § 33.1-253 (Chesapeake Bay Bridge and Tunnel District) and to the Richmond Metropolitan Authority, established in Chapter 70 (§ 15.2-7000 et seq.) of Title 15.2, or if the appointed governing body requests refunding or advanced refunding by the Board and such refunding or advanced refunding is approved by the General Assembly. Such funds shall be held in separate subaccounts of the Transportation Trust Fund to the extent required by law or the Board.

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

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

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

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

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

§ 33.1-23.03:10. Tolls for use of Interstate Highway System components.

A. Notwithstanding any contrary provision of this title and in accordance with all applicable federal and state statutes and requirements, the Commonwealth Transportation Board may impose and collect tolls from all classes of vehicles in amounts established by the Board for the use of any component of the Interstate Highway System within the Commonwealth. However, prior approval of the General Assembly shall be required prior to the imposition and collection of any toll for use of all or any portion of Interstate Route 81. Such funds so collected shall be deposited into the Transportation Trust

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59 Fund established pursuant to § 33.1-23.03:1, subject to allocation by the Board as provided in this
60 section. *Subject to receipt of the requisite federal authorization, the Commonwealth Transportation*
61 *Board shall impose and collect a toll of \$1 per axle on every vehicle entering the Commonwealth from*
62 *the state of North Carolina via Interstate Route 85 and Interstate Route 95.*

63 B. The toll facilities authorized by this section shall be subject to the provisions of federal law for
64 the purpose of tolling motor vehicles to finance interstate construction and reconstruction, promote
65 efficiency in the use of highways, reduce traffic congestion, improve air quality and for such other
66 purposes as may be permitted by federal law.

67 C. In order to mitigate traffic congestion in the vicinity of the toll facilities, no toll facility shall be
68 operated without high-speed automated toll collection technology designed to allow motorists to travel
69 through the toll facilities without stopping to make payments. Nothing in this subsection shall be
70 construed to prohibit a toll facility from retaining means of non-automated toll collection in some lanes
71 of the facility. The Board shall also consider traffic congestion and mitigation thereof and the impact on
72 local traffic movement as factors in determining the location of the toll facilities authorized pursuant to
73 this section.

74 D. The revenues collected from each toll facility established pursuant to this section shall be
75 deposited into segregated subaccounts in the Transportation Trust Fund and may be allocated by the
76 Commonwealth Transportation Board as the Board deems appropriate to:

77 1. Pay or finance all or part of the costs of programs or projects, including without limitation the
78 costs of planning, operation, maintenance and improvements incurred in connection with the toll facility
79 provided that such allocations shall be limited to programs and projects that are reasonably related to or
80 benefit the users of the toll facility. The priorities of metropolitan planning organizations, planning
81 district commissions, local governments, and transportation corridors shall be considered by the Board in
82 making project allocations from such revenues deposited into the Transportation Trust Fund.

83 2. Repay funds from the Toll Facilities Revolving Account or the Transportation Partnership
84 Opportunity Fund.

85 3. Pay the Board's reasonable costs and expenses incurred in the administration and management of
86 the Toll Facility.

87 CHAPTER 10.3.

88 HIGHWAY MAINTENANCE FUNDING FROM GROWTH AT THE PORTS OF THE COMMONWEALTH.

89 § 33.1-391.17. *Revenues from growth at Hampton Roads cargo marine terminals used for highway*
90 *maintenance.*

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

92 *"Base number of cargo containers" means the cargo containers in the Commonwealth's fiscal year*
93 *beginning July 1, 2009.*

94 *"Cargo container" means the number of cargo containers loaded onto, or unloaded from, ships in*
95 *the ports for commerce in a fiscal year, measured in 20-foot-equivalent units.*

96 *"Net revenues" means the gross revenues less the applicable portion of any refunds.*

97 *"Ports" means the public and private general cargo marine terminals located in Hampton Roads.*

98 *"State tax revenues" means the net revenues collected from the (i) state sales tax pursuant to Chapter*
99 *6 (§ 58.1-600 et seq.) of Title 58.1, (ii) individual income tax pursuant to Chapter 3 (§ 58.1-300 et seq.)*
100 *of Title 58.1, (iii) corporate income tax pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, plus*
101 *(iv) insurance license tax pursuant to Chapter 25 (§ 58.1-2500 et seq.) of Title 58.1 for the*
102 *Commonwealth's fiscal year beginning July 1, 2009.*

103 B. *There shall be deposited into the Highway Maintenance and Operating Fund (the Fund) a portion*
104 *of the growth in state taxes attributable to economic activity generated or facilitated by the ports of*
105 *Hampton Roads. The amount deposited into the Fund in each fiscal year shall be determined using the*
106 *following revenue ratio: state tax revenues attributable to economic activity generated or facilitated by*
107 *the ports/base number of cargo containers.*

108 *The General Assembly intends for the revenue ratio to be a measure of the state revenues*
109 *attributable to economic activity of the ports on a per-cargo-container basis.*

110 *Deposits to the Fund shall begin in the Commonwealth's fiscal year starting on July 1, 2011. For*
111 *such fiscal year, the amount deposited to the Fund shall be computed by:*

112 1. *First, multiplying the revenue ratio by the increase in cargo containers for the most recently*
113 *ended fiscal year over the base number of cargo containers; and*

114 2. *Second, multiplying such product by 10 percent (0.10).*

115 *As a result, the amount deposited into the Fund for the Commonwealth's fiscal year starting on July*
116 *1, 2011, shall be computed using the following formula: revenue ratio X (increase in cargo containers*
117 *in fiscal year 2010-2011 over the base number of cargo containers) X 0.10.*

118 *For the fiscal year starting on July 1, 2012, and for each fiscal year thereafter, the amount*
119 *deposited into the Fund shall be computed using such formula except that the cargo containers in the*
120 *most recently ended fiscal year shall be used for determining the increase over the base number of*

cargo containers.

C. The Secretary of Finance, in consultation with the Secretary of Transportation, shall determine the revenue ratio. In determining the numerator of the revenue ratio or the state tax revenues attributable to economic activity generated or facilitated by the ports, the Secretary shall include state tax revenues from (i) ports' operations, including but not limited to revenues from pilots, longshoremen, truck and rail transportation, insurance, warehousing, storage, and ship servicing; (ii) the production in Virginia of goods exported through the ports; (iii) goods imported through the ports and sold to citizens of the Commonwealth or used as inputs by businesses located in the Commonwealth or by Virginia state and local governmental entities; and (iv) employee compensation, fuel costs, business and professional services, power, and communications relating to the factors set forth in clauses (i) through (iii). The Secretary shall determine the revenue ratio no later than January 1, 2011, and shall promptly report the same to the chairmen of the House Committee on Appropriations, the House Committee on Finance, and the Senate Committee on Finance.

D. The Secretary of Finance, in consultation with the Secretary of Transportation, shall determine the amount to be deposited into the Fund in each fiscal year in accordance with the provisions of this section. The Secretary of Finance shall provide a written certification of the same to the Comptroller by August 31 each year. The Comptroller shall then deposit such amount into the Fund by making four equal deposits into the Fund on the fifteenth of September, December, March, and June.

E. Notwithstanding any other provision of this section, the amount deposited into the Fund pursuant to this section shall not exceed \$100 million in any fiscal year.

§ 33.1-391.18. Revenues from growth at Inland Port at Front Royal used for highway maintenance.

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

"Base number of cargo containers" means the cargo containers in the Commonwealth's fiscal year beginning July 1, 2009.

"Cargo container" means the number of cargo containers loaded onto, or unloaded at the port for commerce in a fiscal year, measured in 20-foot-equivalent units.

"Net revenues" means the gross revenues less the applicable portion of any refunds.

"Port" means the Inland Port at Front Royal.

"State tax revenues" means the net revenues collected from the (i) state sales tax pursuant to Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, (ii) individual income tax pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, (iii) corporate income tax pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, plus (iv) insurance license tax pursuant to Chapter 25 (§ 58.1-2500 et seq.) of Title 58.1 for the Commonwealth's fiscal year beginning July 1, 2009.

B. There shall be deposited into the Highway Maintenance and Operating Fund (the Fund) a portion of the growth in state taxes attributable to economic activity generated or facilitated by the port. The amount deposited into the Fund in each fiscal year shall be determined using the following revenue ratio: state tax revenues attributable to economic activity generated or facilitated by the port/base number of cargo containers.

The General Assembly intends for the revenue ratio to be a measure of the state revenues attributable to economic activity of the port on a per-cargo-container basis.

Deposits to the Fund shall begin in the Commonwealth's fiscal year starting on July 1, 2011. For such fiscal year, the amount deposited to the Fund shall be computed by:

1. First, multiplying the revenue ratio by the increase in cargo containers for the most recently ended fiscal year over the base number of cargo containers, and

2. Second, multiplying such product by 10 percent (0.10).

As a result, the amount deposited into the Fund for the Commonwealth's fiscal year starting on July 1, 2011, shall be computed using the following formula: revenue ratio X (increase in cargo containers in fiscal year 2010-2011 over the base number of cargo containers) X 0.10.

For the fiscal year starting on July 1, 2012, and for each fiscal year thereafter, the amount deposited into the Fund shall be computed using such formula except that the cargo containers in the most recently ended fiscal year shall be used for determining the increase over the base number of cargo containers.

C. The Secretary of Finance, in consultation with the Secretary of Transportation, shall determine the revenue ratio. In determining the numerator of the revenue ratio or the state tax revenues attributable to economic activity generated or facilitated by the port, the Secretary shall include state tax revenues from (i) port operations, including but not limited to revenues from truck and rail transportation, insurance, warehousing, and storage; (ii) the production in Virginia of goods carried from the port for export; (iii) goods imported through the ports and sold to citizens of the Commonwealth or used as inputs by businesses located in the Commonwealth or by Virginia state and local governmental entities; and (iv) employee compensation, fuel costs, business and professional services, power, and communications relating to the factors set forth in clauses (i) through (iii). The

182 Secretary shall determine the revenue ratio no later than January 1, 2011, and shall promptly report the
183 same to the chairmen of the House Committee on Appropriations, the House Committee on Finance, and
184 the Senate Committee on Finance.

185 D. The Secretary of Finance, in consultation with the Secretary of Transportation, shall determine
186 the amount to be deposited into the Fund in each fiscal year in accordance with the provisions of this
187 section. The Secretary of Finance shall provide a written certification of the same to the Comptroller by
188 August 31 each year. The Comptroller shall then deposit such amount into the Fund by making four
189 equal deposits into the Fund on the fifteenth of September, December, March, and June.

190 E. Notwithstanding any other provision of this section, the amount deposited into the Fund pursuant
191 to this section shall not exceed \$17 million in any fiscal year.

192 § 33.1-391.19. Revenues from growth at Port of Richmond used for highway maintenance.

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

194 "Base number of cargo containers" means the cargo containers in the Commonwealth's fiscal year
195 beginning July 1, 2009.

196 "Cargo container" means the number of cargo containers loaded onto, or unloaded from, ships in
197 the port for commerce in a fiscal year, measured in 20-foot-equivalent units.

198 "Net revenues" means the gross revenues less the applicable portion of any refunds.

199 "Port" means the Port of Richmond.

200 "State tax revenues" means the net revenues collected from the (i) state sales tax pursuant to Chapter
201 6 (§ 58.1-600 et seq.) of Title 58.1, (ii) individual income tax pursuant to Chapter 3 (§ 58.1-300 et seq.)
202 of Title 58.1, (iii) corporate income tax pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1, plus
203 (iv) insurance license tax pursuant to Chapter 25 (§ 58.1-2500 et seq.) of Title 58.1 for the
204 Commonwealth's fiscal year beginning July 1, 2009.

205 B. There shall be deposited into the Highway Maintenance and Operating Fund (the Fund) a portion
206 of the growth in state taxes attributable to economic activity generated or facilitated by the port. The
207 amount deposited into the Fund in each fiscal year shall be determined using the following revenue
208 ratio: state tax revenues attributable to economic activity generated or facilitated by the port/Base
209 number of cargo containers.

210 The General Assembly intends for the revenue ratio to be a measure of the state revenues
211 attributable to economic activity of the port on a per-cargo-container basis.

212 Deposits to the Fund shall begin in the Commonwealth's fiscal year starting on July 1, 2011. For
213 such fiscal year, the amount deposited to the Fund shall be computed by:

214 1. First, multiplying the revenue ratio by the increase in cargo containers for the most recently
215 ended fiscal year over the base number of cargo containers; and

216 2. Second, multiplying such product by 10 percent (0.10).

217 As a result, the amount deposited into the Fund for the Commonwealth's fiscal year starting on July
218 1, 2011, shall be computed using the following formula: revenue ratio X (increase in cargo containers
219 in fiscal year 2010-2011 over the base number of cargo containers) X 0.10.

220 For the fiscal year starting on July 1, 2012, and for each fiscal year thereafter, the amount
221 deposited into the Fund shall be computed using such formula except that the cargo containers in the
222 most recently ended fiscal year shall be used for determining the increase over the base number of
223 cargo containers.

224 C. The Secretary of Finance, in consultation with the Secretary of Transportation, shall determine
225 the revenue ratio. In determining the numerator of the revenue ratio or the state tax revenues
226 attributable to economic activity generated or facilitated by the port, the Secretary shall include state
227 tax revenues from (i) port operations, including but not limited to revenues from pilots, longshoremen,
228 truck and rail transportation, insurance, warehousing, storage, and ship servicing; (ii) the production in
229 Virginia of goods exported through the port; (iii) goods imported through the ports and sold to citizens
230 of the Commonwealth or used as inputs by businesses located in the Commonwealth or by Virginia state
231 and local governmental entities; and (iv) employee compensation, fuel costs, business and professional
232 services, power, and communications relating to the factors set forth in clauses (i) through (iii). The
233 Secretary shall determine the revenue ratio no later than January 1, 2011, and shall promptly report the
234 same to the chairmen of the House Committee on Appropriations, the House Committee on Finance, and
235 the Senate Committee on Finance.

236 D. The Secretary of Finance, in consultation with the Secretary of Transportation, shall determine
237 the amount to be deposited into the Fund in each fiscal year in accordance with the provisions of this
238 section. The Secretary of Finance shall provide a written certification of the same to the Comptroller by
239 August 31 each year. The Comptroller shall then deposit such amount into the Fund by making four
240 equal deposits into the Fund on the fifteenth of September, December, March, and June.

241 E. Notwithstanding any other provision of this section, the amount deposited into the Fund pursuant
242 to this section shall not exceed \$17 million in any fiscal year.

243 § 58.1-638. Disposition of state sales and use tax revenue; localities' share; Game Protection Fund.

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

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

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

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

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

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

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

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

Of the remaining amount:

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

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

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

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

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

b. The amounts allocated pursuant to this section shall be used to support the public transportation administrative costs and the costs borne by the locality for the purchase of fuels, lubricants, tires and

305 maintenance parts and supplies for public transportation at a state share of 80 percent in 2002 and 95
306 percent in 2003 and succeeding years. These amounts may be used to support up to 95 percent of the
307 local or nonfederal share of capital project costs for public transportation and ridesharing equipment,
308 facilities, and associated costs. Capital costs may include debt service payments on local or agency
309 transit bonds. The term "borne by the locality" means the local share eligible for state assistance
310 consisting of costs in excess of the sum of fares and other operating revenues plus federal assistance
311 received by the locality.

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

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

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

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

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

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

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

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

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

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

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

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

346 g. There is hereby created in the Department of the Treasury a special nonreverting fund known as
347 the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the
348 Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be
349 established on the books of the Comptroller and consist of such moneys as are appropriated to it by the
350 General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given,
351 bequeathed, granted, or otherwise made available to the Commonwealth Transit Capital Fund. Any funds
352 remaining in the Commonwealth Transit Capital Fund at the end of the biennium shall not revert to the
353 general fund, but shall remain in the Commonwealth Transit Capital Fund. Interest earned on funds
354 within the Commonwealth Transit Capital Fund shall remain in and be credited to the Commonwealth
355 Transit Capital Fund. Proceeds of the Commonwealth Transit Capital Fund may be paid to any political
356 subdivision, another public entity created by an act of the General Assembly, or a private entity as
357 defined in § 56-557 and for purposes as enumerated in subdivision 4c of § 33.1-269 or expended by the
358 Department of Rail and Public Transportation for the purposes specified in this subdivision. Revenues of
359 the Commonwealth Transit Capital Fund shall be used to support capital expenditures involving the
360 establishment, improvement, or expansion of public transportation services through specific projects
361 approved by the Commonwealth Transportation Board. Projects financed by the Commonwealth Transit
362 Capital Fund shall receive local, regional or private funding for at least 20 percent of the nonfederal
363 share of the total project cost.

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

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

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

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

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

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

385 D. The net revenue so distributable among the counties and cities shall be apportioned and
386 distributed upon the basis as certified to the Comptroller by the Department of Education, of the number
387 of children in each county and city according to the most recent statewide census of school population
388 taken by the Department of Education pursuant to § 22.1-284, as adjusted in the manner hereinafter
389 provided. No special school population census, other than a statewide census, shall be used as the basis
390 of apportionment and distribution except that in any calendar year in which a statewide census is not
391 reported, the Department of Education shall adjust such school population figures by the same percent of
392 annual change in total population estimated for each locality by The Center for Public Service. The
393 revenue so apportionable and distributable is hereby appropriated to the several counties and cities for
394 maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the
395 operation of the public schools, which shall be considered as funds raised from local resources. In any
396 county, however, wherein is situated any incorporated town constituting a school division, the county
397 treasurer shall pay into the town treasury for maintenance, operation, capital outlays, debt and interest
398 payments, or other expenses incurred in the operation of the public schools, the proper proportionate
399 amount received by him in the ratio that the school population of such town bears to the school
400 population of the entire county. If the school population of any city or of any town constituting a school
401 division is increased by the annexation of territory since the last preceding school population census,
402 such increase shall, for the purposes of this section, be added to the school population of such city or
403 town as shown by the last such census and a proper reduction made in the school population of the
404 county or counties from which the annexed territory was acquired.

405 E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a
406 two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of
407 hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment,
408 wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the
409 most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of
410 Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated
411 Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used,
412 in part, to defray the cost of law enforcement. Not later than 30 days after the close of each quarter, the
413 Comptroller shall transfer to the Game Protection Fund the appropriate amount of collections to be
414 dedicated to such Fund. At any time that the balance in the Capital Improvement Fund, established
415 under § 29.1-101.1, is equal to or in excess of \$35 million, any portion of sales and use tax revenues
416 that would have been transferred to the Game Protection Fund, established under § 29.1-101, in excess
417 of the net operating expenses of the Board, after deduction of other amounts which accrue to the Board
418 and are set aside for the Game Protection Fund, shall remain in the general fund until such time as the
419 balance in the Capital Improvement Fund is less than \$35 million.

420 F. 1. Of the net revenue generated from the one-half percent increase in the rate of the state sales
421 and use tax effective August 1, 2004, pursuant to enactments of the 2004 Special Session I of the
422 General Assembly, the Comptroller shall transfer from the general fund of the state treasury to the
423 Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund established under
424 § 58.1-638.1 an amount equivalent to one-half of the net revenue generated from such one-half percent
425 increase as provided in this subdivision. The transfers to the Public Education Standards of
426 Quality/Local Real Estate Property Tax Relief Fund under this subdivision shall be for one-half of the
427 net revenue generated (and collected in the succeeding month) from such one-half percent increase for

the month of August 2004 and for each month thereafter.

2. For the purposes of the Comptroller making the required transfers under subdivision 1, the Tax Commissioner shall make a written certification to the Comptroller no later than the twenty-fifth of each month certifying the sales and use tax revenues generated in the preceding month. Within three calendar days of receiving such certification, the Comptroller shall make the required transfers to the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund.

G. Of the remaining sales and use tax revenue and beginning with the month of July 2010 and for each month thereafter, the net revenue generated by a 2.5 percent sales and use tax collected from the sales of automobile parts or automobile accessories shall be deposited into the Highway Maintenance and Operating Fund. For the purposes of the Comptroller making such deposit, the Tax Commissioner shall make a written certification to the Comptroller no later than the twenty-fifth of each month estimating the sales and use tax net revenues generated in the preceding month by a 2.5 percent sales and use tax collected from the sales of automobile parts or automobile accessories. Within seven business days after the date of the certification, the Comptroller shall make the required deposit into the Highway Maintenance and Operating Fund.

GH. If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall be corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.

HI. The term "net revenue," as used in this section, means the gross revenue received into the general fund or, the Transportation Trust Fund, or the Highway Maintenance and Operating Fund of the state treasury under the preceding sections of this chapter, less refunds to taxpayers.

§ 58.1-2217. Taxes levied; rate.

A. There is hereby levied a tax at the rate of ~~seventeen and one-half cents~~ \$0.05 per gallon on gasoline and gasohol, *which tax shall (i) increase to and be levied at the rate of \$0.07 per gallon beginning January 1, 2011; (ii) increase to and be levied at the rate of \$0.09 per gallon beginning January 1, 2012; (iii) increase to and be levied at the rate of \$0.11 per gallon beginning January 1, 2013; (iv) increase to and be levied at the rate of \$0.13 per gallon beginning January 1, 2014; and (v) increase to and be levied at the rate of \$0.15 per gallon beginning January 1, 2015.*

B. (Contingent expiration date - see Editor's notes) There is hereby levied a tax at the rate of ~~seventeen and one-half cents~~ \$0.05 per gallon on diesel fuel, *which tax shall (i) increase to and be levied at the rate of \$0.07 per gallon beginning January 1, 2011; (ii) increase to and be levied at the rate of \$0.09 per gallon beginning January 1, 2012; (iii) increase to and be levied at the rate of \$0.11 per gallon beginning January 1, 2013; (iv) increase to and be levied at the rate of \$0.13 per gallon beginning January 1, 2014; and (v) increase to and be levied at the rate of \$0.15 per gallon beginning January 1, 2015.*

B. (Contingent effective date - see Editor's notes) There is hereby levied a tax at the rate of ~~sixteen cents~~ \$0.035 per gallon on diesel fuel, *which tax shall (i) increase to and be levied at the rate of \$0.055 per gallon beginning January 1, 2011; (ii) increase to and be levied at the rate of \$0.075 per gallon beginning January 1, 2012; (iii) increase to and be levied at the rate of \$0.095 per gallon beginning January 1, 2013; (iv) increase to and be levied at the rate of \$0.115 per gallon beginning January 1, 2014; and (v) increase to and be levied at the rate of \$0.135 per gallon beginning January 1, 2015.*

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

D. There is hereby levied a tax at the rate of ~~five cents~~ \$0.05 per gallon on aviation gasoline. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation gasoline shall be liable for the tax at the rate of ~~seventeen and one-half cents~~ per gallon *provided in subsection A*, along with any penalties and interest that may accrue.

E. (Contingent expiration date - see Editor's notes) There is hereby levied a tax at the rate of ~~five cents~~ \$0.05 per gallon on aviation jet fuel purchased or acquired for use by a user of aviation fuel other than an aviation consumer. There is hereby levied a tax at the rate of ~~five cents~~ \$0.05 per gallon upon the first 100,000 gallons of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by any aviation consumer in any fiscal year. There is hereby levied a tax at the rate of one-half cent per gallon on all aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by an aviation consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation jet fuel taxable under this chapter shall be liable for the tax imposed at the rate of ~~seventeen and one-half cents~~ per gallon *provided in subsection A*, along with any penalties and interest that may accrue.

E. (Contingent effective date - see Editor's notes) There is hereby levied a tax at the rate of ~~five cents~~ \$0.05 per gallon on aviation jet fuel purchased or acquired for use by a user of aviation fuel other than an aviation consumer. There is hereby levied a tax at the rate of ~~five cents~~ \$0.05 per gallon upon the first 100,000 gallons of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by any aviation consumer in any fiscal year. There is hereby levied a tax at the rate of one-half

cent per gallon on all aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by an aviation consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation jet fuel taxable under this chapter shall be liable for the tax imposed at the rate of ~~sixteen cents~~ per gallon *provided in subsection B*, along with any penalties and interest that may accrue.

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

§ 58.1-2249. Tax on alternative fuel.

A. (Contingent expiration date - see Editor's notes) There is hereby levied a tax at the rate of ~~seventeen and one-half cents~~ \$0.05 per gallon on liquid alternative fuel used to operate a highway vehicle by means of a vehicle supply tank that stores fuel only for the purpose of supplying fuel to operate the vehicle. There is hereby levied a tax at a rate equivalent to ~~seventeen and one-half cents~~ \$0.05 per gallon on all other alternative fuel used to operate a highway vehicle. The Commissioner shall determine the equivalent rate applicable to such other alternative fuels. *The taxes under this subsection on such liquid alternative fuel and all other alternative fuel shall (i) increase to and be levied at the rate of \$0.07 per gallon beginning January 1, 2011; (ii) increase to and be levied at the rate of \$0.09 per gallon beginning January 1, 2012; (iii) increase to and be levied at the rate of \$0.11 per gallon beginning January 1, 2013; (iv) increase to and be levied at the rate of \$0.13 per gallon beginning January 1, 2014; and (v) increase to and be levied at the rate of \$0.15 per gallon beginning January 1, 2015.*

A. (Contingent effective date - see Editor's notes) There is hereby levied a tax at the rate of ~~sixteen cents~~ \$0.035 per gallon on liquid alternative fuel used to operate a highway vehicle by means of a vehicle supply tank that stores fuel only for the purpose of supplying fuel to operate the vehicle. There is hereby levied a tax at a rate equivalent to ~~sixteen cents~~ \$0.035 per gallon on all other alternative fuel used to operate a highway vehicle. The Commissioner shall determine the equivalent rate applicable to such other alternative fuels. *The taxes under this subsection on such liquid alternative fuel and all other alternative fuel shall (i) increase to and be levied at the rate of \$0.055 per gallon beginning January 1, 2011; (ii) increase to and be levied at the rate of \$0.075 per gallon beginning January 1, 2012; (iii) increase to and be levied at the rate of \$0.095 per gallon beginning January 1, 2013; (iv) increase to and be levied at the rate of \$0.115 per gallon beginning January 1, 2014; and (v) increase to and be levied at the rate of \$0.135 per gallon beginning January 1, 2015.*

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

Article 8.1.

Additional Taxes.

§ 58.1-2288.1. Additional taxes on fuels.

A. Beginning January 1, 2011, and thereafter, any licensee or person required to precollect the tax imposed on fuels under § 58.1-2217 or 58.1-2249 shall also be required to precollect an additional tax, which is hereby imposed at the rate established in subsection B, on the number of gallons of gasoline, gasohol, diesel fuel, blended fuel, or alternative fuel for which the licensee or person is precollecting the tax under such section or sections. The tax imposed under this section shall be in addition to all other taxes and fees of every kind now imposed by law.

B. The tax imposed under subsection A shall be imposed at a cents-per-gallon rate determined by the Commissioner. Such tax shall be imposed at a cents-per-gallon rate equal to five percent of the statewide average wholesale price of a gallon of self-serve unleaded regular gasoline for the applicable base period, excluding federal and state excise taxes, as determined by the Commissioner rounded up to the nearest one-tenth of one cent.

In computing the cents-per-gallon tax, the Commissioner shall use two base periods. The period from April 1 through September 30 shall be the base period for purposes of determining the cents-per-gallon tax for the immediately following period beginning January 1 and ending June 30, inclusive. The period from October 1 through March 31 shall be the base period for purposes of determining the cents-per-gallon tax for the immediately following period beginning July 1 and ending December 31, inclusive.

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

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

557 § 58.1-2289. (Contingent expiration date - see Editor's notes) Disposition of tax revenue generally.

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

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

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

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

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

593 D. One and one-half cents of the tax collected on each gallon of fuel used to propel a commercial
594 watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of
595 the state treasury to be made available to the Board of Game and Inland Fisheries until expended for the
596 purposes provided generally in subsection C of § 29.1-701, including acquisition, construction,
597 improvement and maintenance of public boating access areas on the public waters of this
598 Commonwealth and for other activities and purposes of direct benefit and interest to the boating public
599 and for no other purpose. However, one and one-half cents per gallon on fuel used by commercial
600 fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be
601 used for the construction, repair, improvement and maintenance of the public docks of this
602 Commonwealth used by said commercial watercraft. Any expenditures for the acquisition, construction,
603 improvement and maintenance of the public docks shall be made according to a plan developed by the
604 Virginia Marine Resources Commission.

605 From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for
606 the propelling of watercraft, after deduction for lawful refunds *and after deduction for the revenues*
607 *deposited into the Highway Maintenance and Operating Fund pursuant to subsection G and deduction*
608 *for the revenues deposited into the Highway Maintenance and Operating Fund pursuant to subsection*
609 *H*, there shall be paid into the state treasury for use by the Marine Resources Commission, the Virginia
610 Soil and Water Conservation Board, the State Water Control Board, and the Commonwealth
611 Transportation Board to (i) improve the public docks as specified in this section, (ii) improve
612 commercial and sports fisheries in Virginia's tidal waters, (iii) make environmental improvements

including, without limitation, fisheries management and habitat enhancement in the Chesapeake and its tributaries, and (iv) further the purposes set forth in § 33.1-223, a sum as established by the General Assembly.

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

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

G. *The additional revenues (less any additional refunds authorized and the direct costs of administration by the Department in collecting such additional revenues) generated by the additional tax under § 58.1-2288.1 shall be collected pursuant to Article 4 (§ 58.1-2230 et seq.) and deposited into the Highway Maintenance and Operating Fund.*

For purposes of such deposits, the Commissioner shall provide a monthly certification to the Comptroller reporting the net revenues generated by such tax in the most recently ended month for which such net revenues have been collected.

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

H. *The additional revenues (less any additional refunds authorized and the direct costs of administration by the Department in collecting such additional revenues) generated by the increases in the rates of taxes under §§ 58.1-2217 and 58.1-2249 beginning January 1, 2011, pursuant to enactments of the 2010 Session of the General Assembly shall be collected pursuant to Article 4 (§ 58.1-2230 et seq.) and deposited into the Highway Maintenance and Operating Fund.*

For purposes of such deposits, the Commissioner shall provide a monthly certification to the Comptroller reporting the net revenues generated by such tax in the most recently ended month for which such net revenues have been collected.

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

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

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

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

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

B. ~~The~~ *Except as provided in 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,*

674 maintenance and improvement of airports and landing fields to which the public now has or which it is
675 proposed shall have access, and for the promotion of aviation in the interest of operators and the public
676 generally.

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

686 D. One and one-half cents of the tax collected on each gallon of fuel used to propel a commercial
687 watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of
688 the state treasury to be made available to the Board of Game and Inland Fisheries until expended for the
689 purposes provided generally in subsection C of § 29.1-701, including acquisition, construction,
690 improvement and maintenance of public boating access areas on the public waters of this
691 Commonwealth and for other activities and purposes of direct benefit and interest to the boating public
692 and for no other purpose. However, one and one-half cents per gallon on fuel used by commercial
693 fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be
694 used for the construction, repair, improvement and maintenance of the public docks of this
695 Commonwealth used by said commercial watercraft. Any expenditures for the acquisition, construction,
696 improvement and maintenance of the public docks shall be made according to a plan developed by the
697 Virginia Marine Resources Commission.

698 From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for
699 the propelling of watercraft, after deduction for lawful refunds *and after deduction for the revenues*
700 *deposited into the Highway Maintenance and Operating Fund pursuant to subsection F and deduction*
701 *for the revenues deposited into the Highway Maintenance and Operating Fund established under*
702 *§ 33.1-23.03:1 pursuant to subsection G,* there shall be paid into the state treasury for use by the Marine
703 Resources Commission, the Virginia Soil and Water Conservation Board, the State Water Control Board,
704 and the Commonwealth Transportation Board to (i) improve the public docks as specified in this section,
705 (ii) improve commercial and sports fisheries in Virginia's tidal waters, (iii) make environmental
706 improvements including, without limitation, fisheries management and habitat enhancement in the
707 Chesapeake and its tributaries, and (iv) further the purposes set forth in § 33.1-223, a sum as established
708 by the General Assembly.

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

715 F. *The additional revenues (less any additional refunds authorized and the direct costs of*
716 *administration by the Department in collecting such additional revenues) generated by the additional tax*
717 *under § 58.1-2288.1 shall be collected pursuant to Article 4 (§ 58.1-2230 et seq.) and deposited into the*
718 *Highway Maintenance and Operating Fund.*

719 *For purposes of such deposits, the Commissioner shall provide a monthly certification to the*
720 *Comptroller reporting the net revenues generated by such tax in the most recently ended month for*
721 *which such net revenues have been collected.*

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

726 G. *The additional revenues (less any additional refunds authorized and the direct costs of*
727 *administration by the Department in collecting such additional revenues) generated by the increases in*
728 *the rates of taxes under §§ 58.1-2217 and 58.1-2249 beginning January 1, 2011, pursuant to enactments*
729 *of the 2010 Session of the General Assembly shall be collected pursuant to Article 4 (§ 58.1-2230 et*
730 *seq.) and deposited into the Highway Maintenance and Operating Fund.*

731 *For purposes of such deposits, the Commissioner shall provide a monthly certification to the*
732 *Comptroller reporting the net revenues generated by such tax in the most recently ended month for*
733 *which such net revenues have been collected.*

734 *The monthly certification shall be provided to the Comptroller no later than the twenty-fifth of each*
735 *month. The Comptroller shall deposit an amount equal to each month's net revenues (as reported in the*

Commissioner's certification) into the Highway Maintenance and Operating Fund no later than the last day of the same month in which the certification was made by the Commissioner.

§ 58.1-2402. Levy.

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

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

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

1. Three percent of the sale price of each motor vehicle sold in Virginia prior to January 1, 2011; 3.5 percent of the sale price of each motor vehicle sold in Virginia on or after January 1, 2011, but prior to January 1, 2012; four percent of the sale price of each motor vehicle sold in Virginia on or after January 1, 2012, but prior to January 1, 2013; 4.5 percent of the sale price of each motor vehicle sold in Virginia on or after January 1, 2013, but prior to January 1, 2014; and five percent of the sale price of each motor vehicle sold in Virginia on or after January 1, 2014. 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 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. However, the rate of tax on motor vehicles pursuant to this subdivision shall be 3.5 percent of the sale price of each motor vehicle sold in Virginia on or after January 1, 2011, but prior to January 1, 2012; four percent of the sale price of each motor vehicle sold in Virginia on or after January 1, 2012, but prior to January 1, 2013; 4.5 percent of the sale price of each motor vehicle sold in Virginia on or after January 1, 2013, but prior to January 1, 2014; and five percent of the sale price of each motor vehicle sold in Virginia on or after January 1, 2014. 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

797 title or Title 46.2, shall be guilty of a Class 3 misdemeanor.

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

801 § 58.1-2425. Disposition of revenues.

802 A. Funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury.
803 Except as otherwise provided in this section, these funds shall constitute special funds within the
804 Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall
805 be available for use in subsequent years for the purposes set forth in this chapter, and any interest
806 income on such funds shall accrue to these funds. The revenue so derived, after refunds have been
807 deducted, is hereby allocated for the construction, reconstruction and maintenance of highways and the
808 regulation of traffic thereon and for no other purpose. However, (i) all funds collected pursuant to the
809 provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the
810 city, town, or county wherein such manufactured home is to be situated as a dwelling; (ii) all funds
811 collected from the additional tax imposed by subdivision A 4 of § 58.1-2402 on the rental of daily rental
812 vehicles shall be distributed quarterly to the city, town, or county wherein such vehicle was delivered to
813 the rentee; (iii) effective January 1, 1987, an amount equivalent to the net additional revenues generated
814 by enactments of the 1986 Special Session of the Virginia General Assembly which amended
815 §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402 and this section shall be distributed to and paid into the
816 Transportation Trust Fund, a special fund within the Commonwealth Transportation Fund, and are
817 hereby appropriated to the Commonwealth Transportation Board for transportation needs; (iv) except as
818 otherwise provided in clause (iii) of this sentence, all moneys collected from the tax on the gross
819 proceeds from the rental in Virginia of any motor vehicle pursuant to subdivision A 3 of § 58.1-2402 at
820 the tax rate in effect on December 31, 1986, shall be paid by the Commissioner into the state treasury
821 and shall be paid into the Rail Enhancement Fund established by § 33.1-221.1:1.1; and (v) all additional
822 revenues resulting from the fee imposed under subdivision A 5 of § 58.1-2402 as enacted by the 2004
823 Session of the General Assembly shall be used to pay the debt service on the bonds issued by the
824 Virginia Public Building Authority for the Statewide Agencies Radio System (STARS) for the
825 Department of State Police pursuant to the authority granted by the 2004 Session of the General
826 Assembly; and (vi) *all additional revenues generated by the annual increases in the rates of taxes under*
827 *§ 58.1-2402 (net of the applicable portion of any refunds and the direct costs of administration by the*
828 *Department in collecting such additional revenues) beginning January 1, 2011, pursuant to enactments*
829 *of the 2010 Session of the General Assembly shall be deposited into the Highway Maintenance and*
830 *Operating Fund.*

831 B. *For purposes of the deposits under clause (vi) of subsection A, the Commissioner shall provide a*
832 *monthly certification to the Comptroller reporting the net revenues generated in the preceding month*
833 *from the increases in the rates of taxes under § 58.1-2402 pursuant to enactments of the 2010 Session of*
834 *the General Assembly.*

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

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

845 § 58.1-2701. (Contingent expiration date - see Editor's notes) Amount of tax.

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

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

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

858 If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due

at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the registration fee paid is authorized by law.

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

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

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

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

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

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

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

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

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

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

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.

§ 67-301. Royalties from offshore natural gas and oil resources.

All royalties paid to the Commonwealth as a result of offshore natural gas and oil drilling shall be deposited by the Comptroller to the Transportation Trust Fund established pursuant to § 33.1-23.03:1. For purposes of such deposit, the Secretary of Finance shall periodically provide a written certification to the Comptroller reporting the amount of such royalties paid to the Commonwealth. The Secretary of Finance shall provide a copy of the certification to the Governor and the General Assembly. Upon receipt of the certification, the Comptroller shall promptly deposit such amount into the Transportation Trust Fund.

2. That if the revenues, less refunds, generated under Chapter 22 (§ 58.1-2200 et seq.) of Title 58.1 of the Code of Virginia for any fiscal year are at least \$350 million greater than the revenues, less refunds, generated under such chapter for the Commonwealth's fiscal year ending on June 30, 2010, then any scheduled increase in the rates of taxes under §§ 58.1-2217 and 58.1-2249 of the

920 Code of Virginia pursuant to the provisions of this act that has not already become effective shall
921 not thereafter become effective. Within 45 days after the end of each fiscal year, the Secretary of
922 Finance shall make a written determination as to whether the condition in this enactment has been
923 met and shall as soon as practicable provide a copy of the same to the Governor and the General
924 Assembly.

925 3. That the Commissioner of the Department of Motor Vehicles shall periodically publish the
926 rates of taxes on fuels taxable under Chapter 22 (§ 58.1-2200 et seq.) of Title 58.1 of the Code of
927 Virginia for purposes of identifying the rates of taxes currently in effect under §§ 58.1-2217,
928 58.1-2249, and 58.1-2288.1 of the Code of Virginia.

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