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**HOUSE BILL NO. 892**

Offered January 11, 2012

Prefiled January 11, 2012

A *BILL to amend and reenact §§ 33.1-268, 33.1-269, 33.1-277, 58.1-603, 58.1-604, 58.1-605, 58.1-606, 58.1-609.1, 58.1-609.10, 58.1-638, 58.1-2217, 58.1-2249, 58.1-2261, 58.1-2289, as it may become effective, 58.1-2701, as it is currently effective and as it may become effective, and 58.1-2706 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 33.1-23.03:11, relating to eliminating the exemption from the retail sales and use tax for fuels sales and reducing the current rates of fuels taxes; dedicating the revenues from the retail sales and use tax on fuels sales for financing or funding highway construction projects in the Commonwealth and for highway maintenance; and authorizing the Commonwealth Transportation Board to issue Commonwealth of Virginia Highway Construction Projects Revenue Bonds in an aggregate principal amount not to exceed \$5 billion.*

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Patrons—Alexander and Spruill

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Referred to Committee on Finance

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**Be it enacted by the General Assembly of Virginia:**

1. That §§ 33.1-268, 33.1-269, 33.1-277, 58.1-603, 58.1-604, 58.1-605, 58.1-606, 58.1-609.1, 58.1-609.10, 58.1-638, 58.1-2217, 58.1-2249, 58.1-2261, 58.1-2289, as it may become effective, 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 a section numbered 33.1-23.03:11 as follows:

§ 33.1-23.03:11. Highway Construction Projects Trust Fund established.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Highway Construction Projects Trust Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. The Fund shall be a subfund of the Transportation Trust Fund established under § 33.1-23.03:1. 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.

B. All funds as may be designated for deposit into the Fund shall be paid into the state treasury and credited to the Fund. Such funds shall include all revenues deposited into the Fund pursuant to subsection G of § 58.1-638 and any grants, donations, or funds from any other source, public or private, designated for deposit into the Fund.

C. Moneys in the Fund shall be used solely for financing or funding the construction, acquisition, reconstruction, or replacement of or improvements or additions to highway projects in the Commonwealth determined necessary by the Commonwealth Transportation Board. Moneys in the Fund shall be used to pay the costs of such projects, including but not limited to environmental and engineering studies, rights-of-way acquisition, or the making of debt service payments on bonds or obligations issued for such projects and for which the Fund is expressly required for making such payments. The costs of such projects shall also include any financing costs or other financing expenses relating to such bonds or obligations and the payment of interest on such bonds for a period during construction and not exceeding one year after completion of construction of the highway projects.

D. The Commonwealth Transportation Board may use the Fund (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 moneys 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.

E. The Commonwealth Transportation Board shall ensure that of the revenues deposited into the Fund pursuant to subsection G of § 58.1-638 over the long term approximately 38 percent of such revenues shall be used for projects in the Northern Virginia construction district, 31 percent of such revenues shall be used for projects in the Hampton Roads construction district, and 31 percent of such revenues shall be used for projects in all other construction districts in the Commonwealth.

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

§ 33.1-268. Definitions.

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

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HB892

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

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

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

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

68 (c), (d) [Reserved.]

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

71 (f), (g) [Reserved.]

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

74 (i) [Reserved.]

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

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

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

86 (m) The limited access highway between the Patrick Henry Airport area and the Newport News  
87 downtown area which generally runs parallel to tracks of the Chesapeake and Ohio Railroad.

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

94 (o), (p) [Repealed.]

95 (q) Subject to the limitations and approvals of § 33.1-279.1, any other highway for a primary  
96 highway transportation improvement district or transportation service district which the Board has agreed  
97 to finance under a contract with any such district or any other alternative mechanism for generation of  
98 local revenues for specific funding of a project satisfactory to the Commonwealth Transportation Board,  
99 the financing for which is to be secured by Transportation Trust Fund revenues under any appropriation  
100 made by the General Assembly for that purpose and payable first from revenues received under such  
101 contract or other local funding source, second, to the extent required, from funds appropriated and  
102 allocated, pursuant to the highway allocation formula as provided by law, to the highway construction  
103 district in which the project is located or to the county or counties in which the project is located and  
104 third, to the extent required from other legally available revenues of the Trust Fund and from any other  
105 available source of funds.

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

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

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

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

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

118 (w) Any project identified by the Commonwealth Transportation Board to be financed in whole or in  
119 part through the issuance of Commonwealth of Virginia Federal Transportation Grant Anticipation  
120 Revenue Notes.

(x) Any project authorized by the General Assembly financed in whole or in part by funds from the Highway Construction Projects Trust Fund established pursuant to § 33.1-23.03:11 or from the proceeds of bonds whose debt service is paid in whole or in part by funds from such Fund.

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

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

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

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

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

(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

182 Virginia Transportation Revenue Bonds," secured, subject to their appropriation by the General  
183 Assembly, first from (i) revenues received from the Northern Virginia Transportation District Fund, (ii)  
184 to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as  
185 provided by law, to the highway construction district in which the project or projects to be financed are  
186 located or to the city or county in which the project or projects to be financed are located, (iii) to the  
187 extent required, legally available revenues of the Transportation Trust Fund, and (iv) such other funds  
188 which may be appropriated by the General Assembly;

189 4b. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of  
190 Virginia Transportation Program Revenue Bonds" secured, subject to their appropriation by the General  
191 Assembly, first from (i) any revenues received from any Set-aside Fund established by the General  
192 Assembly pursuant to § 58.1-816.1, (ii) to the extent required, revenues received pursuant to any  
193 contract with a local jurisdiction or any alternative mechanism for generation of local revenues for  
194 specific funding of a project satisfactory to the Commonwealth Transportation Board, (iii) to the extent  
195 required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by  
196 law, to the highway construction district in which the project or projects to be financed are located or to  
197 the city or county in which the project or projects to be financed are located, (iv) to the extent required,  
198 legally available revenues of the Transportation Trust Fund, and (v) such other funds which may be  
199 appropriated by the General Assembly. No bonds for any project or projects shall be issued under the  
200 authority of this subsection unless such project or projects are specifically included in a bill or resolution  
201 passed by the General Assembly;

202 4c. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of  
203 Virginia Transportation Program Revenue Bonds" secured, subject to their appropriation by the General  
204 Assembly, first from (i) any revenues received from the Commonwealth Transit Capital Fund established  
205 by the General Assembly pursuant to subdivision A 4 g of § 58.1-638, (ii) to the extent required, legally  
206 available revenues of the Transportation Trust Fund, and (iii) such other funds which may be  
207 appropriated by the General Assembly. No bonds for any project or projects shall be issued under the  
208 authority of this subsection unless such project or projects are specifically included in a bill or resolution  
209 passed by the General Assembly;

210 4d. Issue revenue bonds of the Commonwealth from time to time to be known and designated as  
211 "Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes" secured, subject to  
212 their appropriation by the General Assembly, (i) first from any federal highway reimbursements and any  
213 other federal highway assistance received from time to time by the Commonwealth, (ii) then, at the  
214 discretion of the Board, to the extent required, from legally available revenues of the Transportation  
215 Trust Fund, and (iii) then from such other funds, if any, which are designated by the General Assembly  
216 for such purpose;

217 4e. Issue revenue bonds of the Commonwealth from time to time to be known and designated as  
218 "Commonwealth of Virginia Credit Assistance Revenue Bonds," secured, subject to their appropriation  
219 by the General Assembly, solely from revenues with respect to or generated by the project or projects  
220 being financed thereby and any tolls or other revenues pledged by the Board as security therefor and in  
221 accordance with the applicable federal credit assistance authorized with respect to such project or  
222 projects by the United States Department of Transportation;

223 4f. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of  
224 Virginia Transportation Capital Projects Revenue Bonds," secured, subject to their appropriation by the  
225 General Assembly, (i) from the revenues deposited into the Priority Transportation Fund established  
226 pursuant to § 33.1-23.03:8; (ii) to the extent required, from revenues legally available from the  
227 Transportation Trust Fund; and (iii) to the extent required, from any other legally available funds;

228 4g. Issue grant anticipation notes of the Commonwealth from time to time to be known and  
229 designated as "Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes"  
230 secured, subject to their appropriation by the General Assembly, (i) first from the project-specific  
231 reimbursements pursuant to § 33.1-23.23; (ii) then, at the discretion of the Board, to the extent required,  
232 from legally available revenues of the Transportation Trust Fund; and (iii) then from such other funds, if  
233 any, which are designated by the General Assembly for such purpose;

234 4h. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of  
235 Virginia Highway Construction Projects Revenue Bonds," secured, subject to their appropriation by the  
236 General Assembly, (i) from the revenues deposited into the Highway Construction Projects Trust Fund  
237 established pursuant to § 33.1-23.03:11; (ii) to the extent required, from revenues legally available from  
238 the Transportation Trust Fund; and (iii) to the extent required, from any other legally available funds;

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

241 6. Construct grade separations at intersections of any projects with public highways, streets or other  
242 public ways or places and change and adjust the lines and grades thereof so as to accommodate the  
243 same to the design of such grade separations, the cost of such grade separations and any damage

incurred in changing and adjusting the lines and grades of such highways, streets, ways and places to be ascertained and paid by the Board as a part of the cost of the project;

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

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

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

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

305 article shall not directly or indirectly or contingently obligate the Commonwealth to levy or to pledge  
306 any form of taxation whatever therefor or to make any appropriation for their payment, other than  
307 appropriate available funds derived as revenues from tolls and charges under this article or derived from  
308 bond proceeds or earnings thereon and from any other available sources of funds.

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

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

335 D. Commonwealth of Virginia Transportation Revenue Bonds issued under this article for Category 1  
336 projects as provided in subdivision (2) (s) of § 33.1-268 shall not be deemed to constitute a debt of the  
337 Commonwealth of Virginia or a pledge of the faith and credit of the Commonwealth. Such bonds shall  
338 be payable solely, subject to their appropriation by the General Assembly, first from (i) revenues  
339 received from the Northern Virginia Transportation District Fund, (ii) to the extent required, funds  
340 appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the  
341 highway construction district in which the project or projects to be financed are located or to the city or  
342 county in which the project or projects to be financed are located, (iii) to the extent required, legally  
343 available revenues of the Transportation Trust Fund, and (iv) such other funds which may be  
344 appropriated by the General Assembly.

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

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

366 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 Federal Transportation Grant Anticipation Revenue Notes issued under the provisions of Article 1.3 (§ 33.1-23.14 et seq.) of Chapter 1 and 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 notes shall be payable solely, subject to their appropriation by the General Assembly, (i) first from the project-specific reimbursements pursuant to § 33.1-23.23, (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.

J. Commonwealth of Virginia Highway Construction Projects Revenue Bonds issued under the provisions of this article for projects as provided in subdivision (2) (x) 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 Highway Construction Projects Trust Fund established pursuant to § 33.1-23.03:11; (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.

§ 58.1-603. Imposition of sales tax.

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

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

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

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

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

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

*The tax under this section on fuels that are also subject to the tax imposed by Chapter 22 (§ 58.1-2200 et seq.) shall be five percent.*

§ 58.1-604. Imposition of use tax.

There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount of three and one-half percent through midnight on July 31, 2004, and four percent beginning on and after August 1, 2004:

1. Of the cost price of each item or article of tangible personal property used or consumed in this Commonwealth. Tangible personal property which has been acquired for use outside this Commonwealth and subsequently becomes subject to the tax imposed hereunder shall be taxed on the basis of its cost price if such property is brought within this Commonwealth for use within six months of its acquisition; but if so brought within this Commonwealth six months or more after its acquisition, such property shall be taxed on the basis of the current market value (but not in excess of its cost price) of such property at the time of its first use within this Commonwealth. Such tax shall be based on such proportion of the

428 cost price or current market value as the duration of time of use within this Commonwealth bears to the  
429 total useful life of such property (but it shall be presumed in all cases that such property will remain  
430 within this Commonwealth for the remainder of its useful life unless convincing evidence is provided to  
431 the contrary).

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

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

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

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

441 *The tax under this section on fuels that are also subject to the tax imposed by Chapter 22*  
442 *(§ 58.1-2200 et seq.) shall be five percent.*

443 § 58.1-605. To what extent and under what conditions cities and counties may levy local sales taxes;  
444 collection thereof by Commonwealth and return of revenue to each city or county entitled thereto.

445 A. No county, city or town shall impose any local general sales or use tax or any local general retail  
446 sales or use tax except as authorized by this section.

447 B. The council of any city and the governing body of any county may levy a general retail sales tax  
448 at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall  
449 be added to the rate of the state sales tax imposed by §§ 58.1-603 and 58.1-604 and shall be subject to  
450 all the provisions of this chapter and the rules and regulations published with respect thereto. *No city or*  
451 *county shall levy the tax authorized under this section on fuels that are subject to the tax imposed by*  
452 *Chapter 22 (§ 58.1-2200 et seq.).*

453 No discount under § 58.1-622 shall be allowed on a local sales tax.

454 C. The council of any city and the governing body of any county desiring to impose a local sales tax  
455 under this section may do so by the adoption of an ordinance stating its purpose and referring to this  
456 section, and providing that such ordinance shall be effective on the first day of a month at least 60 days  
457 after its adoption. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so  
458 that it will be received within five days after its adoption.

459 D. Any local sales tax levied under this section shall be administered and collected by the Tax  
460 Commissioner in the same manner and subject to the same penalties as provided for the state sales tax.

461 E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid  
462 into the state treasury to the credit of a special fund which is hereby created on the Comptroller's books  
463 under the name "Collections of Local Sales Taxes." Such local sales tax moneys shall be credited to the  
464 account of each particular city or county levying a local sales tax under this section. The basis of such  
465 credit shall be the city or county in which the sales were made as shown by the records of the  
466 Department and certified by it monthly to the Comptroller, namely, the city or county of location of  
467 each place of business of every dealer paying the tax to the Commonwealth without regard to the city or  
468 county of possible use by the purchasers. If a dealer has any place of business located in more than one  
469 political subdivision by reason of the boundary line or lines passing through such place of business, the  
470 amount of sales tax paid by such a dealer with respect to such place of business shall be treated for the  
471 purposes of this section as follows: one-half shall be assignable to each political subdivision where two  
472 are involved, one-third where three are involved, and one-fourth where four are involved.

473 F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in  
474 any month for the preceding month, the Comptroller shall draw his warrant on the Treasurer of Virginia  
475 in the proper amount in favor of each city or county entitled to the monthly return of its local sales tax  
476 moneys, and such payments shall be charged to the account of each such city or county under the  
477 special fund created by this section. If errors are made in any such payment, or adjustments are  
478 otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall  
479 be corrected and adjustments made in the payments for the next six months as follows: one-sixth of the  
480 total adjustment shall be included in the payments for the next six months. In addition, the payment  
481 shall include a refund of amounts erroneously not paid to the city or county and not previously refunded  
482 during the three years preceding the discovery of the error. A correction and adjustment in payments  
483 described in this subsection due to the misallocation of funds by the dealer shall be made within three  
484 years of the date of the payment error.

485 G. Such payments to counties are subject to the qualification that in any county wherein is situated  
486 any incorporated town constituting a special school district and operated as a separate school district  
487 under a town school board of three members appointed by the town council, the county treasurer shall  
488 pay into the town treasury for general governmental purposes the proper proportionate amount received  
489 by him in the ratio that the school age population of such town bears to the school age population of



the entire county. If the school age population of any town constituting a separate school district is increased by the annexation of territory since the last estimate of school age population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school age population of such town as shown by the last such estimate and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

H. One-half of such payments to counties are subject to the further qualification, other than as set out in subsection G above, that in any county wherein is situated any incorporated town not constituting a separate special school district which has complied with its charter provisions providing for the election of its council and mayor for a period of at least four years immediately prior to the adoption of the sales tax ordinance, the county treasurer shall pay into the town treasury of each such town for general governmental purposes the proper proportionate amount received by him in the ratio that the school age population of each such town bears to the school age population of the entire county, based on the latest estimate provided by the Weldon Cooper Center for Public Service. The preceding requirement pertaining to the time interval between compliance with election provisions and adoption of the sales tax ordinance shall not apply to a tier-city. If the school age population of any such town not constituting a separate special school district is increased by the annexation of territory or otherwise since the last estimate of school age population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school age population of such town as shown by the last such estimate and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

I. Notwithstanding the provisions of subsection H, the board of supervisors of a county may, in its discretion, appropriate funds to any incorporated town not constituting a separate school district within such county which has not complied with the provisions of its charter relating to the elections of its council and mayor, an amount not to exceed the amount it would have received from the tax imposed by this chapter if such election had been held.

J. It is further provided that if any incorporated town which would otherwise be eligible to receive funds from the county treasurer under subsection G or H of this section be located in a county which does not levy a general retail sales tax under the provisions of this law, such town may levy a general retail sales tax at the rate of one percent to provide revenue for the general fund of the town, subject to all the provisions of this section generally applicable to cities and counties. Any tax levied under the authority of this subsection shall in no case continue to be levied on or after the effective date of a county ordinance imposing a general retail sales tax in the county within which such town is located.

§ 58.1-606. To what extent and under what conditions cities and counties may levy local use tax; collection thereof by Commonwealth and return of revenues to the cities and counties.

A. The council of any city and the governing body of any county which has levied or may hereafter levy a city or county sales tax under § 58.1-605 may levy a city or county use tax at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall be added to the rate of the state use tax imposed by this chapter and shall be subject to all the provisions of this chapter, and all amendments thereof, and the rules and regulations published with respect thereto, except that no discount under § 58.1-622 shall be allowed on a local use tax. *No city or county shall levy the tax authorized under this section on fuels that are subject to the tax imposed by Chapter 22 (§ 58.1-2200 et seq.).*

B. The council of any city and the governing body of any county desiring to impose a local use tax under this section may do so in the manner following:

1. If the city or county has previously imposed the local sales tax authorized by § 58.1-605, the local use tax may be imposed by the council or governing body by the adoption of a resolution by a majority of all the members thereof, by a recorded yea and nay vote, stating its purpose and referring to this section, and providing that the local use tax shall become effective on the first day of a month at least 60 days after the adoption of the resolution. A certified copy of such resolution shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption. The resolution authorized by this paragraph may be adopted in the manner stated notwithstanding any other provision of law, including any charter provision.

2. If the city or county has not imposed the local sales tax authorized by § 58.1-605, the local use tax may be imposed by ordinance together with the local sales tax in the manner set out in subsections B and C of § 58.1-605.

C. Any local use tax levied under this section shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state use tax.

D. The local use tax authorized by this section shall not apply to transactions to which the sales tax applies, the situs of which for state and local sales tax purposes is the city or county of location of each place of business of every dealer paying the tax to the Commonwealth without regard to the city or

551 county of possible use by the purchasers. However, the local use tax authorized by this section shall  
552 apply to tangible personal property purchased without this Commonwealth for use or consumption  
553 within the city or county imposing the local use tax, or stored within the city or county for use or  
554 consumption, where the property would have been subject to the sales tax if it had been purchased  
555 within this Commonwealth. The local use tax shall also apply to leases or rentals of tangible personal  
556 property where the place of business of the lessor is without this Commonwealth and such leases or  
557 rentals are subject to the state tax. Moreover, *except as otherwise provided in this section*, the local use  
558 tax shall apply in all cases in which the state use tax applies.

559 E. Out-of-state dealers who hold certificates of registration to collect the use tax from their customers  
560 for remittance to this Commonwealth shall, to the extent reasonably practicable, in filing their monthly  
561 use tax returns with the Tax Commissioner, break down their shipments into this Commonwealth by  
562 cities and counties so as to show the city or county of destination. If, however, the out-of-state dealer is  
563 unable accurately to assign any shipment to a particular city or county, the local use tax on the tangible  
564 personal property involved shall be remitted to the Commonwealth by such dealer without attempting to  
565 assign the shipment to any city or county.

566 F. Local use tax revenue shall be distributed among the cities and counties for which it is collected,  
567 respectively, as shown by the records of the Department, and the procedure shall be the same as that  
568 prescribed for distribution of local sales tax revenue under § 58.1-605. The local use tax revenue that is  
569 not accurately assignable to a particular city or county shall be distributed monthly by the appropriate  
570 state authorities among the cities and counties in this Commonwealth imposing the local use tax upon  
571 the basis of taxable retail sales in the respective cities and counties in which the local sales and use tax  
572 was in effect in the taxable month involved, as shown by the records of the Department, and computed  
573 with respect to taxable retail sales as reflected by the amounts of the local sales tax revenue distributed  
574 among such cities and counties, respectively, in the month of distribution. Notwithstanding any other  
575 provision of this section, the Tax Commissioner shall develop a uniform method to distribute local use  
576 tax. Any significant changes to the method of local use tax distribution shall be phased in over a  
577 five-year period. Distribution information shall be shared with the affected localities prior to  
578 implementation of the changes.

579 G. All local use tax revenue shall be used, applied or disbursed by the cities and counties as  
580 provided in § 58.1-605 with respect to local sales tax revenue.

581 § 58.1-609.1. Governmental and commodities exemptions.

582 The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606  
583 shall not apply to the following:

584 1. ~~Fuels which are subject to the tax imposed by Chapter 22 (§ 58.1-2200 et seq.) of this title.~~  
585 ~~Persons who are refunded any such fuel tax shall, however, be subject to the tax imposed by this~~  
586 ~~chapter, unless such taxes would be specifically exempted pursuant to any provision of this section.~~

587 2. Motor vehicles, trailers, semitrailers, mobile homes and travel trailers.

588 3. Gas, electricity, or water when delivered to consumers through mains, lines, or pipes.

589 4. Tangible personal property for use or consumption by the Commonwealth, any political  
590 subdivision of the Commonwealth, or the United States. This exclusion shall not apply to sales and  
591 leases to privately owned financial and other privately owned corporations chartered by the United  
592 States. Further, this exemption shall not apply to tangible personal property which is acquired by the  
593 Commonwealth or any of its political subdivisions and then transferred to private businesses for their  
594 use in a facility or real property improvement to be used by a private entity or for nongovernmental  
595 purposes other than tangible personal property acquired by the Herbert H. Bateman Advanced  
596 Shipbuilding and Carrier Integration Center and transferred to a Qualified Shipbuilder as defined in the  
597 third enactment of Chapter 790 of the 1998 Acts of the General Assembly.

598 5. Aircraft subject to tax under Chapter 15 (§ 58.1-1500 et seq.) of this title.

599 6. Motor fuels and alternative fuels for use in a commercial watercraft, as defined in § 58.1-2201,  
600 upon which a fuel tax is refunded pursuant to § 58.1-2259.

601 7. Sales by a government agency of the official flags of the United States, the Commonwealth of  
602 Virginia, or of any county, city or town.

603 8. Materials furnished by the State Board of Elections pursuant to §§ 24.2-404 through 24.2-407.

604 9. Watercraft as defined in § 58.1-1401.

605 10. Tangible personal property used in and about a marine terminal under the supervision of the  
606 Virginia Port Authority for handling cargo, merchandise, freight and equipment. This exemption shall  
607 apply to agents, lessees, sublessees or users of tangible personal property owned by or leased to the  
608 Virginia Port Authority and to property acquired or used by the Authority or by a nonstock, nonprofit  
609 corporation that operates a marine terminal or terminals on behalf of the Authority.

610 11. Sales by prisoners confined in state correctional facilities of artistic products personally made by  
611 the prisoners as authorized by § 53.1-46.

612 12. Tangible personal property for use or consumption by the Virginia Department for the Blind and

Vision Impaired or any nominee, as defined in § 51.5-60, of such Department.

13. [Expired.]

14. Tangible personal property sold to residents and patients of the Virginia Veterans Care Center at a canteen operated by the Department of Veterans Services.

15. Tangible personal property for use or consumption by any nonprofit organization whose members include the Commonwealth and other states and which is organized for the purpose of fostering interstate cooperation and excellence in government.

16. Tangible personal property purchased for use or consumption by any soil and conservation district which is organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1.

17. Beginning September 1, 2004, (i) tangible personal property sold or leased to Alexandria Transit Company, Greater Lynchburg Transit Company, GRTC Transit System, or Greater Roanoke Transit Company that is owned, operated, or controlled by any county, city, or town, or any combination thereof, that provides public transportation services, and/or (ii) tangible personal property sold or leased to any county, city, or town, or any combination thereof, that is transferred to any of the companies set forth in clause (i) owned, operated, or controlled by any county, city, or town, or any combination thereof, that provides public transportation services.

18. (Effective until July 1, 2012) Qualified products designated as Energy Star or WaterSense with a sales price of \$2,500 or less per product purchased for noncommercial home or personal use. The exemption provided by this subdivision shall apply only to sales occurring during the four-day period that begins each year on the Friday before the second Monday in October and ends at midnight on the second Monday in October.

For the purposes of this exemption, an Energy Star qualified product is any dishwasher, clothes washer, air conditioner, ceiling fan, compact fluorescent light bulb, dehumidifier, programmable thermostat, or refrigerator, the energy efficiency of which has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each such agency's requirements under the Energy Star program. For the purposes of this exemption, WaterSense qualified products are those that have been recognized as being water efficient by the WaterSense program sponsored by the U.S. Environmental Protection Agency as indicated by a WaterSense label.

§ 58.1-609.10. Miscellaneous exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Artificial or propane gas, firewood, coal or home heating oil used for domestic consumption. "Domestic consumption" means the use of artificial or propane gas, firewood, coal or home heating oil by an individual purchaser for other than business, commercial or industrial purposes. The Tax Commissioner shall establish by regulation a system for use by dealers in classifying individual purchases for domestic or nondomestic use based on the principal usage of such gas, wood, coal or oil. Any person making a nondomestic purchase and paying the tax pursuant to this chapter who uses any portion of such purchase for domestic use may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for a refund of the tax paid on the domestic use portion.

2. An occasional sale, as defined in § 58.1-602. A nonprofit organization that is eligible to be granted an exemption on its purchases pursuant to § 58.1-609.11, and that is otherwise eligible for the exemption pursuant to this subdivision, shall be exempt pursuant to this subdivision on its sales of (i) food, prepared food and meals and (ii) tickets to events that include the provision of food, prepared food and meals, so long as such sales take place on fewer than 24 occasions in a calendar year.

3. Tangible personal property for future use by a person for taxable lease or rental as an established business or part of an established business, or incidental or germane to such business, including a simultaneous purchase and taxable leaseback.

4. Delivery of tangible personal property outside the Commonwealth for use or consumption outside of the Commonwealth. Delivery of goods destined for foreign export to a factor or export agent shall be deemed to be delivery of goods for use or consumption outside of the Commonwealth.

5. Tangible personal property purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.

6. Tangible personal property purchased for use or consumption in the performance of maintenance and repair services at Nuclear Regulatory Commission-licensed nuclear power plants located outside the Commonwealth.

7. Beginning July 1, 1997, and ending July 1, 2006, a professional's provision of original, revised, edited, reformatted or copied documents, including but not limited to documents stored on or transmitted

674 by electronic media, to its client or to third parties in the course of the professional's rendition of  
675 services to its clientele.

676 8. School lunches sold and served to pupils and employees of schools and subsidized by government;  
677 school textbooks sold by a local board or authorized agency thereof; and school textbooks sold for use  
678 by students attending a college or other institution of learning, when sold (i) by such institution of  
679 learning or (ii) by any other dealer, when such textbooks have been certified by a department or  
680 instructor of such institution of learning as required textbooks for students attending courses at such  
681 institution.

682 9. Medicines, drugs, hypodermic syringes, artificial eyes, contact lenses, eyeglasses, eyeglass cases,  
683 and contact lens storage containers when distributed free of charge, all solutions or sterilization kits or  
684 other devices applicable to the wearing or maintenance of contact lenses or eyeglasses when distributed  
685 free of charge, and hearing aids dispensed by or sold on prescriptions or work orders of licensed  
686 physicians, dentists, optometrists, ophthalmologists, opticians, audiologists, hearing aid dealers and  
687 fitters, nurse practitioners, physician assistants, and veterinarians; controlled drugs purchased for use by  
688 a licensed physician, optometrist, licensed nurse practitioner, or licensed physician assistant in his  
689 professional practice, regardless of whether such practice is organized as a sole proprietorship,  
690 partnership, or professional corporation, or any other type of corporation in which the shareholders and  
691 operators are all licensed physicians, optometrists, licensed nurse practitioners, or licensed physician  
692 assistants engaged in the practice of medicine, optometry, or nursing; medicines and drugs purchased for  
693 use or consumption by a licensed hospital, nursing home, clinic, or similar corporation not otherwise  
694 exempt under this section; and samples of prescription drugs and medicines and their packaging  
695 distributed free of charge to authorized recipients in accordance with the federal Food, Drug, and  
696 Cosmetic Act (21 U.S.C.A. § 301 et seq., as amended). With the exceptions of those medicines and  
697 drugs used for agricultural production animals that are exempt to veterinarians under subdivision 1 of  
698 § 58.1-609.2, any veterinarian dispensing or selling medicines or drugs on prescription shall be deemed  
699 to be the user or consumer of all such medicines and drugs.

700 10. Wheelchairs and parts therefor, braces, crutches, prosthetic devices, orthopedic appliances,  
701 catheters, urinary accessories, other durable medical equipment and devices, and related parts and  
702 supplies specifically designed for those products; and insulin and insulin syringes, and equipment,  
703 devices or chemical reagents that may be used by a diabetic to test or monitor blood or urine, when  
704 such items or parts are purchased by or on behalf of an individual for use by such individual. Durable  
705 medical equipment is equipment that (i) can withstand repeated use, (ii) is primarily and customarily  
706 used to serve a medical purpose, (iii) generally is not useful to a person in the absence of illness or  
707 injury, and (iv) is appropriate for use in the home.

708 11. Drugs and supplies used in hemodialysis and peritoneal dialysis.

709 12. Special equipment installed on a motor vehicle when purchased by a handicapped person to  
710 enable such person to operate the motor vehicle.

711 13. Special typewriters and computers and related parts and supplies specifically designed for those  
712 products used by handicapped persons to communicate when such equipment is prescribed by a licensed  
713 physician.

714 14. a. (i) Any nonprescription drugs and proprietary medicines purchased for the cure, mitigation,  
715 treatment, or prevention of disease in human beings and (ii) any samples of nonprescription drugs and  
716 proprietary medicines distributed free of charge by the manufacturer, including packaging materials and  
717 constituent elements and ingredients.

718 b. The terms "nonprescription drugs" and "proprietary medicines" shall be defined pursuant to  
719 regulations promulgated by the Department of Taxation. The exemption authorized in this subdivision  
720 shall not apply to cosmetics.

721 15. Tangible personal property withdrawn from inventory and donated to (i) an organization exempt  
722 from taxation under § 501(c) (3) of the Internal Revenue Code or (ii) the Commonwealth, any political  
723 subdivision of the Commonwealth, or any school, agency, or instrumentality thereof.

724 16. Tangible personal property purchased by nonprofit churches that are exempt from taxation under  
725 § 501(c) (3) of the Internal Revenue Code, or whose real property is exempt from local taxation  
726 pursuant to the provisions of § 58.1-3606, for use (i) in religious worship services by a congregation or  
727 church membership while meeting together in a single location and (ii) in the libraries, offices, meeting  
728 or counseling rooms or other rooms in the public church buildings used in carrying out the work of the  
729 church and its related ministries, including kindergarten, elementary and secondary schools. The  
730 exemption for such churches shall also include baptistries; bulletins, programs, newspapers and  
731 newsletters that do not contain paid advertising and are used in carrying out the work of the church;  
732 gifts including food for distribution outside the public church building; food, disposable serving items,  
733 cleaning supplies and teaching materials used in the operation of camps or conference centers by the  
734 church or an organization composed of churches that are exempt under this subdivision and which are  
735 used in carrying out the work of the church or churches; and property used in caring for or maintaining

property owned by the church including, but not limited to, mowing equipment; and building materials installed by the church, and for which the church does not contract with a person or entity to have installed, in the public church buildings used in carrying out the work of the church and its related ministries, including, but not limited to worship services; administrative rooms; and kindergarten, elementary, and secondary schools.

17. Medical products and supplies, which are otherwise taxable, such as bandages, gauze dressings, incontinence products and wound-care products, when purchased by a Medicaid recipient through a Department of Medical Assistance Services provider agreement.

18. Beginning July 1, 2007, and ending July 1, 2012, multifuel heating stoves used for heating an individual purchaser's residence. "Multifuel heating stoves" are stoves that are capable of burning a wide variety of alternative fuels, including, but not limited to, shelled corn, wood pellets, cherry pits, and olive pits.

19. Fabrication of animal meat, grains, vegetables, or other foodstuffs when the purchaser (i) supplies the foodstuffs and they are consumed by the purchaser or his family, (ii) is an organization exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code, or (iii) donates the foodstuffs to an organization exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code.

20. *Aviation gasoline or aviation jet fuel that is not sold or purchased for use, stored or delivered for use, or used or consumed in a highway vehicle. "Aviation gasoline," "aviation jet fuel," and "highway vehicle" mean the same as those terms are defined in § 58.1-2201.*

21. *"Bonded aviation jet fuel" as defined in § 58.1-2201.*

22. *"Dyed diesel fuel," except cases in which such fuel is used to operate a highway vehicle for a taxable use under this chapter other than a use allowed under § 4082 of the Internal Revenue Code of 1954, as amended or renumbered. "Dyed diesel fuel," "highway vehicle," and "use" mean the same as such terms are defined in § 58.1-2201.*

§ 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:

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

803 Of the remaining amount:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

858 f. The remaining 25 percent shall be distributed for capital purposes on the basis of 95 percent of the

nonfederal share for federal projects and 95 percent of the total costs for nonfederal projects. In the event that total capital funds available under this subdivision are insufficient to fund the complete list of eligible projects, the funds shall be distributed to each transit property in the same proportion that such capital expenditure bears to the statewide total of capital projects. Prior to the annual adoption of the Six-Year Improvement Program, the Commonwealth Transportation Board may allocate up to 20 percent of the funds in the Commonwealth Mass Transit Fund designated for capital purposes to transit operating assistance if operating funds for the next fiscal year are estimated to be less than the current fiscal year's allocation, to attempt to maintain transit operations at approximately the same level as the previous fiscal year.

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

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

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

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

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

B. The sales and use tax revenue generated by a one percent sales and use tax shall be distributed among the counties and cities of ~~this the~~ Commonwealth in the manner provided in subsections C and D. *Such one percent shall be computed excluding the sales and use tax revenues generated from the tax under this chapter imposed on fuels that are subject to the tax imposed by Chapter 22 (§ 58.1-2200 et seq.).*

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

D. The net revenue so distributable among the counties and cities shall be apportioned and distributed upon the basis of the latest yearly estimate of the population of cities and counties ages five to 19, provided by the Weldon Cooper Center for Public Service of the University of Virginia. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for persons who are domiciled in orphanages or charitable institutions or who are dependents living on any federal military or naval reservation or other federal property within the school division in which the institutions or federal military or naval reservation or other federal property is located. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for members of the military services who are under 20 years of age within the school division in which the parents or guardians of such persons legally reside. Such

920 population estimate produced by the Weldon Cooper Center for Public Service of the University of  
921 Virginia shall account for persons who are confined in state hospitals, state training schools or state  
922 training centers for the mentally retarded, mental institutions, or state or federal correctional institutions  
923 or who attend the Virginia School for the Deaf and the Blind within the school division in which the  
924 parents or guardians of such persons legally reside. Such population estimate produced by the Weldon  
925 Cooper Center for Public Service of the University of Virginia shall account for persons who attend  
926 institutions of higher education within the school division in which the student's parents or guardians  
927 legally reside. To such estimate, the Department of Education shall add the population of students with  
928 disabilities, ages two through four and 20 through 21, as provided to the Department of Education by  
929 school divisions. The revenue so apportionable and distributable is hereby appropriated to the several  
930 counties and cities for maintenance, operation, capital outlays, debt and interest payments, or other  
931 expenses incurred in the operation of the public schools, which shall be considered as funds raised from  
932 local resources. In any county, however, wherein is situated any incorporated town constituting a school  
933 division, the county treasurer shall pay into the town treasury for maintenance, operation, capital outlays,  
934 debt and interest payments, or other expenses incurred in the operation of the public schools, the proper  
935 proportionate amount received by him in the ratio that the school population of such town bears to the  
936 school population of the entire county. If the school population of any city or of any town constituting a  
937 school division is increased by the annexation of territory since the last estimate of school population  
938 provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this  
939 section, be added to the school population of such city or town as shown by the last such estimate and a  
940 proper reduction made in the school population of the county or counties from which the annexed  
941 territory was acquired.

942 E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a  
943 two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of  
944 hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment,  
945 wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the  
946 most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of  
947 Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated  
948 Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used,  
949 in part, to defray the cost of law enforcement. Not later than 30 days after the close of each quarter, the  
950 Comptroller shall transfer to the Game Protection Fund the appropriate amount of collections to be  
951 dedicated to such Fund. At any time that the balance in the Capital Improvement Fund, established  
952 under § 29.1-101.01, is equal to or in excess of \$35 million, any portion of sales and use tax revenues  
953 that would have been transferred to the Game Protection Fund, established under § 29.1-101, in excess  
954 of the net operating expenses of the Board, after deduction of other amounts which accrue to the Board  
955 and are set aside for the Game Protection Fund, shall remain in the general fund until such time as the  
956 balance in the Capital Improvement Fund is less than \$35 million.

957 F. 1. Of the net revenue generated from the one-half percent increase in the rate of the state sales  
958 and use tax effective August 1, 2004, pursuant to enactments of the 2004 Special Session I of the  
959 General Assembly, the Comptroller shall transfer from the general fund of the state treasury to the  
960 Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund established under  
961 § 58.1-638.1 an amount equivalent to one-half of the net revenue generated from such one-half percent  
962 increase as provided in this subdivision. The transfers to the Public Education Standards of  
963 Quality/Local Real Estate Property Tax Relief Fund under this subdivision shall be for one-half of the  
964 net revenue generated (and collected in the succeeding month) from such one-half percent increase for  
965 the month of August 2004 and for each month thereafter.

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

971 G. *Of the sales and use tax revenue generated by the imposition of the tax under this chapter on*  
972 *fuels that are subject to the tax imposed under Chapter 22 (§ 58.1-2200 et seq.), \$250 million each year*  
973 *shall be deposited into the Highway Maintenance and Operating Fund and the remainder each year*  
974 *shall be deposited into the Highway Construction Projects Trust Fund established under*  
975 *§ 33.1-23.03:11. For the purposes of such deposits, beginning with the month of January 2013 and for*  
976 *each month thereafter, the Comptroller shall deposit into the Highway Maintenance and Operating Fund*  
977 *one-twelfth of the annual amount required to be deposited to such Fund pursuant to this subsection.*  
978 *Beginning with the month of February 2013 and for each month thereafter, the Comptroller shall make*  
979 *deposits to the Highway Construction Projects Trust Fund for the remainder of the sales and use tax*  
980 *revenues generated in the preceding month from the imposition of the tax under this chapter on fuels*  
981 *that are subject to the tax imposed under Chapter 22 (§ 58.1-2200 et seq.). For purposes of the deposits*



to the Highway Construction Projects Trust Fund, the Tax Commissioner shall make a written certification to the Comptroller no later than the twentieth of each month certifying the sales and use tax revenues generated in the preceding month to be deposited into such Fund. Within eight calendar days of receiving such certification, the Comptroller shall make the required deposits into the Highway Construction Projects Trust 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 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~~ twelve and one-half cents per gallon on gasoline and gasohol.

B. (Contingent expiration date - see Editor's notes) There is hereby levied a tax at the rate of ~~seventeen~~ twelve and one-half cents per gallon on diesel fuel.

B. (Contingent effective date - see Editor's notes) There is hereby levied a tax at the rate of ~~sixteen~~ eleven cents per gallon on diesel fuel.

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

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

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

E. (Contingent effective date - see Editor's notes) There is hereby levied a tax at the rate of five cents per gallon on aviation jet fuel purchased or acquired for use by a user of aviation fuel other than an aviation consumer. There is hereby levied a tax at the rate of five cents per gallon upon the first 100,000 gallons of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by any aviation consumer in any fiscal year. There is hereby levied a tax at the rate of one-half cent per gallon on all aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by an aviation consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation jet fuel taxable under this chapter shall be liable for the tax imposed at the rate of ~~sixteen~~ eleven cents per gallon, 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~~ twelve and one-half cents per gallon on liquid alternative fuel used to operate a highway vehicle by means of a vehicle supply tank that stores fuel only for the purpose of supplying fuel to operate the vehicle. There is hereby levied a tax at a rate equivalent to ~~seventeen~~ twelve and one-half cents per gallon on all other alternative fuel used to operate a highway vehicle. The Commissioner shall determine the equivalent rate applicable to such other alternative fuels.

A. (Contingent effective date - see Editor's notes) There is hereby levied a tax at the rate of ~~sixteen~~ eleven cents per gallon on liquid alternative fuel used to operate a highway vehicle by means of a vehicle supply tank that stores fuel only for the purpose of supplying fuel to operate the vehicle. There is hereby levied a tax at a rate equivalent to ~~sixteen~~ eleven cents per gallon on all other alternative fuel used to operate a highway vehicle. The Commissioner shall determine the equivalent rate applicable to such other alternative fuels.

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

1043 tax levied under this article has not been paid on fuel used in the vehicle. If such a highway vehicle is  
1044 not in operation by January 1 of any year, the license tax shall be reduced by one-twelfth for each  
1045 complete month which shall have elapsed since the beginning of such year.

1046 § 58.1-2261. Refund procedure; investigations.

1047 A. Any person entitled to a refund pursuant to § 58.1-2259 shall file with the Commissioner an  
1048 application on a form prepared and furnished by the Commissioner. Such application shall contain the  
1049 information and certifications required by the Commissioner. The applicant shall set forth the basis for  
1050 the claimed refund, the total amount of such fuel purchased and used by such applicant, and how such  
1051 fuel was used. The applicant shall retain the paid ticket, invoice, or other document from the seller  
1052 documenting the purchase of the fuel on which a refund is claimed for a period of time to be  
1053 determined by the Commissioner. The Commissioner, upon the presentation of such application shall  
1054 refund to the claimant the proper amount of the tax paid as provided in this chapter, subject to the  
1055 provisions of subsection D. A ticket issued to the holder of a credit card as evidence of the delivery to  
1056 such holder of tax-paid fuel shall, for the purpose of this section, be a paid ticket or invoice. Tickets or  
1057 invoices marked "duplicate" shall not be acceptable.

1058 B. The application for a refund shall be filed within one year from the date of the sale as shown on  
1059 the paid ticket or invoice. For those that pay the motor fuels tax in accordance with § 58.1-2200, if the  
1060 refund amount certified by the Commissioner is different from the amount requested by the applicant,  
1061 the Commissioner shall provide an explanation to the applicant of why the refund amount differs from  
1062 the amount requested.

1063 C. In the event an assessment is rendered for failure to report and pay the tax imposed as provided  
1064 in § 58.1-2217 or § 58.1-2249 and such fuel is subject to refund under the provisions of § 58.1-2259,  
1065 the application for a refund shall be filed with the Commissioner by the person entitled to such refund  
1066 within one year from the date such assessment is paid and shall be accompanied by invoices covering  
1067 the sale of the fuel and billing of tax to such person.

1068 D. The Department may make any investigation it considers necessary before refunding the fuels tax  
1069 to a person, and may investigate a refund after the refund has been issued and within the time frame for  
1070 adjusting tax under this chapter. As a part of such investigation, the Department may require that the  
1071 person provide the paid ticket, invoice, or other document from the seller documenting the purchase of  
1072 the fuel on which a refund is claimed. Failure to provide a ticket, invoice, or other document evidencing  
1073 the purchase of such fuel on which a refund is requested or was previously granted will result in the  
1074 denial or reversal of that refund.

1075 E. ~~In accordance with § 58.1-609.1, any person who is refunded tax pursuant to § 58.1-2259 shall be~~  
1076 ~~subject to the taxes imposed by Chapter 6 (§ 58.1-600 et seq.) of this title, unless such transaction is~~  
1077 ~~specifically exempted pursuant to § 58.1-609.1.~~

1078 § 58.1-2289. (Contingent effective date - see Editor's notes) Disposition of tax revenue generally.

1079 A. Unless otherwise provided in this section, all taxes and fees, including civil penalties, collected by  
1080 the Commissioner pursuant to this chapter, less a reasonable amount to be allocated for refunds, shall be  
1081 promptly paid into the state treasury and shall constitute special funds within the Commonwealth  
1082 Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for  
1083 use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds  
1084 shall accrue to these funds. Except as provided in § 33.1-23.03:1, no portion of the revenue derived  
1085 from taxes collected pursuant to §§ 58.1-2217, 58.1-2249 or § 58.1-2701, and remaining after authorized  
1086 refunds for nonhighway use of fuel, shall be used for any purpose other than the construction,  
1087 reconstruction or maintenance of the roads and projects comprising the State Highway System, the  
1088 Interstate System and the secondary system of state highways and expenditures directly and necessarily  
1089 required for such purposes, including the retirement of revenue bonds.

1090 Revenues collected under this chapter may be also used for (i) contributions toward the construction,  
1091 reconstruction or maintenance of streets in cities and towns of such sums as may be provided by law  
1092 and (ii) expenditures for the operation and maintenance of the Department of Transportation, the  
1093 Department of Rail and Public Transportation, the Department of Aviation, the Virginia Port Authority,  
1094 and the Department of Motor Vehicles as may be provided by law.

1095 The Governor is hereby authorized to transfer out of such fund an amount necessary for the  
1096 inspection of gasoline and motor grease measuring and distributing equipment, and for the inspection  
1097 and analysis of gasoline for purity.

1098 B. The tax collected on each gallon of aviation fuel sold and delivered or used in this  
1099 Commonwealth, less refunds, shall be paid into a special fund of the state treasury. Proceeds of this  
1100 special fund within the Commonwealth Transportation Fund shall be disbursed upon order of the  
1101 Department of Aviation, on warrants of the Comptroller, to defray the cost of the administration of the  
1102 laws of this Commonwealth relating to aviation, for the construction, maintenance and improvement of  
1103 airports and landing fields to which the public now has or which it is proposed shall have access, and  
1104 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 ~~the a~~ refund has been paid at the rate of ~~seventeen cents per gallon, or in the case of diesel fuel, fifteen and one-half cents per gallon, 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, 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.

§ 58.1-2701. (Contingent expiration 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 ~~\$0.21~~ *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 \$150 per year for each qualified highway vehicle regardless of whether such vehicle will be included on the motor carrier's IFTA return. 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.

§ 58.1-2701. (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

1166 Commonwealth.

1167 The tax imposed by this chapter shall be in addition to all other taxes of whatever character imposed  
1168 on a motor carrier by any other provision of law.

1169 B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles  
1170 that are not registered under the International Registration Plan shall pay a fee of \$100 per year for each  
1171 qualified highway vehicle, regardless of whether such vehicle will be included on the motor carrier's  
1172 IFTA return. The fee is due and payable when the vehicle registration fees are paid pursuant to the  
1173 provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2.

1174 If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due  
1175 at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration  
1176 expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the  
1177 registration fee paid is authorized by law.

1178 C. All taxes and fees paid under the provisions of this chapter shall be credited to the Highway  
1179 Maintenance and Operating Fund, a special fund within the Commonwealth Transportation Fund.

1180 § 58.1-2706. Credit for payment of motor fuel, diesel fuel or liquefied gases tax.

1181 A. Every motor carrier subject to the road tax shall be entitled to a credit on such tax *at a per-gallon*  
1182 *rate equivalent to seventeen and one-half cents per gallon the total tax imposed on each gallon of diesel*  
1183 *fuel under subsection B of § 58.1-2217* on all motor fuel, diesel fuel and liquefied gases purchased by  
1184 such carrier within the Commonwealth for use in its operations either within or without the  
1185 Commonwealth and upon which the motor fuel, diesel fuel or liquefied gases tax imposed by the laws  
1186 of the Commonwealth has been paid by such carrier. Evidence of the payment of such tax in such form  
1187 as may be required by, or is satisfactory to, the Department shall be furnished by each carrier claiming  
1188 the credit herein allowed.

1189 B. When the amount of the credit to which any motor carrier is entitled for any quarter exceeds the  
1190 amount of the tax for which such carrier is liable for the same quarter, the excess may: (i) be allowed as  
1191 a credit on the tax for which such carrier would be otherwise liable for any of the eight succeeding  
1192 quarters or (ii) be refunded, upon application, duly verified and presented and supported by such  
1193 evidence as may be satisfactory to the Department.

1194 C. The Department may allow a refund upon receipt of proper application and review. It shall be at  
1195 the discretion of the Department to determine whether an audit is required.

1196 D. The refund may be allowed without a formal hearing if the amount of refund is agreed to by the  
1197 applicant. Otherwise, a formal hearing on the application shall be held by the Department after notice of  
1198 not less than ten days to the applicant and the Attorney General.

1199 E. Whenever any refund is ordered it shall be paid out of the Highway Maintenance and  
1200 Construction Fund.

1201 F. Whenever a person operating under lease to a motor carrier to perform transport services on  
1202 behalf of the carrier purchases motor fuel, diesel fuel or liquefied gases relating to such services, such  
1203 payments or purchases may, at the discretion of the Department, be considered payment or purchases by  
1204 the carrier.

1205 **2. That the Commonwealth Transportation Board is authorized to issue bonds to fund**  
1206 **transportation projects throughout the Commonwealth as follows:**

1207 § 1. *Title. This Act shall be known and may be cited as the "Commonwealth Highway Construction*  
1208 *Projects Bond Act of 2012."*

1209 § 2. *The Commonwealth Transportation Board is hereby authorized, by and with the consent of the*  
1210 *Governor, to issue, pursuant to the provisions of the State Revenue Bond Act (§ 33.1-267 et seq. of the*  
1211 *Code of Virginia) as amended from time to time, revenue obligations of the Commonwealth to be*  
1212 *designated "Commonwealth of Virginia Highway Construction Projects Revenue Bonds, Series .." at one*  
1213 *or more times in an aggregate principal amount not to exceed \$5 billion, after all costs.*

1214 § 3. *The net proceeds of the Bonds shall be used exclusively for the purpose of providing funds for*  
1215 *paying the costs incurred or to be incurred for the construction, acquisition, reconstruction, or*  
1216 *replacement of or improvements or additions to highway projects in the Commonwealth determined*  
1217 *necessary by the Commonwealth Transportation Board, including but not limited to environmental and*  
1218 *engineering studies, rights-of-way acquisition, and any financing costs and other financing expenses.*  
1219 *Such costs may include the payment of interest on the Bonds for a period during construction and not*  
1220 *exceeding one year after completion of construction of the projects.*

1221 § 4. *The proceeds of the Bonds, including any premium received on the sale thereof, shall be made*  
1222 *available by the Commonwealth Transportation Board to pay costs of the projects and, where*  
1223 *appropriate, may be paid to any authority, locality, commission, or other entity for the purposes of*  
1224 *paying for costs of the projects. The proceeds of the Bonds may be used together with any federal,*  
1225 *local, or private funds that may be made available for such purpose. The proceeds of the Bonds,*  
1226 *together with any investment earnings thereon, may, at the discretion of the Commonwealth*  
1227 *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 25 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. All Bonds shall have and are hereby declared to have, as between successive holders, all of the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth.

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 highway allocation formula set forth in § 33.1-23.1 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 on the Bonds authorized hereby and to enter into the appropriate agreements to allow for those funds to be paid into the state treasury, or to a trustee in accordance with § 33.1-283 of the Code of Virginia, as

1289 amended, to pay a part of the costs of the projects or to pay principal or purchase price of, and  
1290 redemption premium, if any, and interest on the Bonds.

1291 § 11. The Commonwealth Transportation Board, in connection with the issuance of the Bonds, shall  
1292 establish a fund in accordance with § 33.1-286 of the Code of Virginia, as amended, either in the state  
1293 treasury or with a trustee in accordance with § 33.1-283 of the Code of Virginia, as amended, which  
1294 shall secure and be used for the payment of the Bonds to the credit of which there shall be deposited  
1295 such amounts, appropriated therefor by the General Assembly, as are required to pay principal or  
1296 purchase price of, and redemption premium, if any, and interest on the Bonds, as and when due and  
1297 payable, (i) from the revenues deposited into the Highway Construction Projects Trust Fund established  
1298 pursuant to § 33.1-23.03:11; (ii) to the extent required, from revenues legally available from the  
1299 Transportation Trust Fund; and (iii) to the extent required, from any other legally available funds.

1300 § 12. Bond proceeds and moneys in any reserve funds and sinking funds in respect of the Bonds  
1301 shall be invested by the State Treasurer in accordance with the provisions of general law relating to the  
1302 investment of such funds belonging to or in the control of the Commonwealth, or by a trustee in  
1303 accordance with § 33.1-283 of the Code of Virginia, as amended.

1304 § 13. The interest income from and any profit made on the sale of the obligations issued under the  
1305 provisions of this Act shall at all times be free and exempt from taxation by the Commonwealth and by  
1306 any municipality, county, or other political subdivision thereof.

1307 § 14. All obligations issued under the provisions of this Act are hereby made securities in which all  
1308 persons and entities listed in § 33.1-280 of the Code of Virginia, as amended, may properly and legally  
1309 invest funds under their control.

1310 **3. That the Department of Taxation shall develop and make publicly available guidelines for the**  
1311 **imposition of the retail sales and use tax on certain fuels transactions pursuant to the provisions of**  
1312 **this act. The guidelines shall include a bracket system, designed so that such tax shall appear on**  
1313 **the fuel pump or other fuel dispensing mechanism as a part of the total cost of a unit of fuel,**  
1314 **whether the unit is a gallon or other measure. The bracket system shall state the tax per unit**  
1315 **measure in tenths of a cent, and shall be in increments as determined by the Tax Commissioner.**  
1316 **In developing such guidelines, the Department shall not be subject to the provisions of the**  
1317 **Administrative Process Act (§ 2.2-4000 et seq.) of the Code of Virginia.**

1318 **4. That the provisions of this act shall become effective on January 1, 2013.**