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## SENATE BILL NO. 1340

Offered January 18, 2013

A *BILL to amend and reenact §§ 58.1-603, 58.1-604, 58.1-604.1, 58.1-608.3, 58.1-614, 58.1-638, 58.1-2217, 58.1-2249, 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, relating to revenues and appropriations of the Commonwealth.*

Patrons—Saslaw and Howell

Referred to Committee on Finance

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

1. That §§ 58.1-603, 58.1-604, 58.1-604.1, 58.1-608.3, 58.1-614, 58.1-638, 58.1-2217, 58.1-2249, 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 as follows:

**§ 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~~ *five percent*:

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

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

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

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

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

**§ 58.1-604. 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~~ *five percent*:

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

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

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

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

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

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59 during any calendar year.

60 **§ 58.1-604.1. Use tax on motor vehicles, machinery, tools and equipment brought into Virginia**  
61 **for use in performing contracts.**

62 In addition to the use tax levied pursuant to § 58.1-604 and notwithstanding the provisions of  
63 § 58.1-611, a use tax is levied upon the storage or use of all motor vehicles, machines, machinery, tools  
64 or other equipment brought, imported or caused to be brought into this Commonwealth for use in  
65 constructing, building or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or  
66 water system, drainage or dredging system, railway system, reservoir or dam, hydraulic or power plant,  
67 transmission line, tower, dock, wharf, excavation, grading, or other improvement or structure, or any  
68 part thereof. The rate of tax is ~~three and one-half percent through midnight on July 31, 2004, and four~~  
69 ~~percent beginning on and after August 1, 2004, five percent~~ on all tangible personal property except  
70 motor vehicles, which shall be taxed at the rate of three percent; aircraft, which shall be taxed at the  
71 rate of two percent; and watercraft, which shall be taxed at the rate of two percent with a maximum tax  
72 of \$1,000.

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

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

88 A transaction taxed under § 58.1-604, 58.1-605, 58.1-1402, 58.1-1502, 58.1-1736 or 58.1-2402 shall  
89 not also be taxed under this section, nor shall the same transaction be taxed more than once under any  
90 section.

91 **§ 58.1-608.3. Entitlement to certain sales tax revenues.**

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

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

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

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

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

111 "Public facility" means (i) any auditorium, coliseum, convention center, sports facility that is  
112 designed for use primarily as a baseball stadium for a minor league professional baseball affiliated team  
113 or structures attached thereto, or conference center, which is owned by a Virginia county, city, town,  
114 authority, or other public entity and where exhibits, meetings, conferences, conventions, seminars, or  
115 similar public events may be conducted; (ii) any hotel which is owned by a foundation whose sole  
116 purpose is to benefit a state-supported university and which is attached to and is an integral part of such  
117 facility, together with any lands reasonably necessary for the conduct of the operation of such events;  
118 (iii) any hotel which is attached to and is an integral part of such facility; or (iv) any hotel that is  
119 adjacent to a convention center owned by a public entity and where the hotel owner enters into a  
120 public-private partnership whereby the locality contributes infrastructure, real property, or conference

space. However, such public facility must be located in the City of Hampton, City of Lynchburg, City of Newport News, City of Norfolk, City of Portsmouth, City of Richmond, City of Roanoke, City of Salem, City of Staunton, City of Suffolk, City of Virginia Beach, or City of Winchester. Any property, real, personal, or mixed, which is necessary or desirable in connection with any such auditorium, coliseum, convention center, baseball stadium or conference center, including, without limitation, facilities for food preparation and serving, parking facilities, and administration offices, is encompassed within this definition. However, structures commonly referred to as "shopping centers" or "malls" shall not constitute a public facility hereunder. A public facility shall not include residential condominiums, townhomes, or other residential units. In addition, only a new public facility, or a public facility which will undergo a substantial and significant renovation or expansion, shall be eligible under subsection C of this section. A new public facility is one whose construction began after December 31, 1991. A substantial and significant renovation entails a project whose cost is at least 50 percent of the original cost of the facility being renovated and shall have begun after December 31, 1991. A substantial and significant expansion entails an increase in floor space of at least 50 percent over that existing in the preexisting facility and shall have begun after December 31, 1991; or an increase in floor space of at least 10 percent over that existing in a public facility that qualified as such under this section and was constructed after December 31, 1991.

"Sales tax revenues" means such tax collections realized under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) of this title, as limited herein. "Sales tax revenues" does not include the revenue generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly which shall be paid to the Transportation Trust Fund as defined in § 33.1-23.03:1, ~~nor shall it include the one percent of the state sales and use tax revenue distributed among the counties and cities of the Commonwealth pursuant to subsection D of § 58.1-638 on the basis of school age population, or the one percent sales and use tax increase enacted by the 2013 Session of the General Assembly.~~ For a public facility that is a sports facility, "sales tax revenues" shall include such revenues generated by transactions taking place upon the premises of a baseball stadium or structures attached thereto.

B. Notwithstanding the definition of "public facility" in subsection A, a development project that meets the requirements for a "development of regional impact" set forth herein shall be deemed to be a public facility under the provisions of this section. The locality in which the public facility is located shall be entitled to all sales tax revenues generated by transactions taking place at such public facility solely to pay the cost of any bonds issued to pay the cost, or portion thereof, of such public facility pursuant to subsection C. For purposes of this subsection, the development of regional impact must be located in the City of Bristol.

For purposes of this subsection, a "development of regional impact" means a development project (i) towards which the locality contributes infrastructure or real property as part of a public-private partnership with the developer that is equal to at least 20 percent of the aggregate cost of development, (ii) that is reasonably expected to require a capital investment of at least \$50 million, (iii) that is reasonably expected to generate at least \$5 million annually in state sales and use tax revenue from sales within the development, (iv) that is reasonably expected to attract at least one million visitors annually, (v) that is reasonably expected to create at least 2,000 permanent jobs, (vi) that is located in a locality that had a rate of unemployment at least three percentage points higher than the statewide average in November 2011, and (vii) that is located in a locality that is adjacent to a state that has adopted a Border Region Retail Tourism Development District Act. Within 30 days from the date of notification by a locality that it intends to contribute infrastructure or real property as part of a public-private partnership with the developer of a development of regional impact, the Department of Taxation shall review the findings of the locality with respect to clauses (i) through (vi) and shall file a written report with the Chairmen of the House Committee on Finance, the House Committee on Appropriations, and the Senate Committee on Finance.

C. Any municipality which has issued bonds (i) after December 31, 1991, but before January 1, 1996, (ii) on or after January 1, 1998, but before July 1, 1999, (iii) on or after January 1, 1999, but before July 1, 2001, (iv) on or after July 1, 2000, but before July 1, 2003, (v) on or after July 1, 2001, but before July 1, 2005, (vi) on or after July 1, 2004, but before July 1, 2007, (vii) on or after July 1, 2009, but before July 1, 2012, or (viii) on or after January 1, 2011, but prior to July 1, 2015, to pay the cost, or portion thereof, of any public facility shall be entitled to all sales tax revenues generated by transactions taking place in such public facility. Such entitlement shall continue for the lifetime of such bonds, which entitlement shall not exceed 35 years, and all such sales tax revenues shall be applied to repayment of the bonds. The State Comptroller shall remit such sales tax revenues to the municipality on a quarterly basis, subject to such reasonable processing delays as may be required by the Department of Taxation to calculate the actual net sales tax revenues derived from the public facility. The State Comptroller shall make such remittances to eligible municipalities, as provided herein, notwithstanding

any provisions to the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.). No such remittances shall be made until construction is completed and, in the case of a renovation or expansion, until the governing body of the municipality has certified that the renovation or expansion is completed.

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

**§ 58.1-614. Vending machine sales.**

A. Notwithstanding the provisions of §§ 58.1-603 and 58.1-604, whenever a dealer makes sales of tangible personal property through vending machines, or in any other manner making collection of the tax impractical, as determined by the Tax Commissioner, such dealer shall be required to report his wholesale purchases for sale at retail from vending machines and shall be required to remit an amount based on ~~four and one-half percent through midnight on July 31, 2004, and five percent beginning on and after August 1, 2004,~~ *six percent* of such wholesale purchases.

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

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

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

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

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

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

1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly *and by one-half of the one percent sales and use tax increase enacted by the 2013 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 ~~14.7~~ 25 percent shall be set aside as the Commonwealth Mass Transit Fund as provided in this section. The Fund's share of such net revenue shall be computed as an estimate of the net revenue to be received into the state treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall be made to the Fund on the last day of each month.

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

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

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

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

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

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

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

Of the remaining amount:

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

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

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

3a. There is hereby created in the Department of the Treasury a special nonreverting fund that shall be a part of the Transportation Trust Fund and that shall be known as the Commonwealth Space Flight Fund. The Commonwealth Space Flight 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.

a. The amounts allocated to the Commonwealth Space Flight Fund pursuant to § 33.1-23.03:2 shall be allocated by the Commonwealth Transportation Board to the Board of Directors of the Virginia Commercial Space Flight Authority to be used to support the capital needs, maintenance, and operating costs of any and all facilities owned and operated by the Virginia Commercial Space Flight Authority.

b. Commonwealth Space Flight Fund revenue shall be allocated by the Board of Directors to the Virginia Commercial Space Flight Authority in order to foster and stimulate the growth of the commercial space flight industry in Virginia.

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

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

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

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

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

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

(3) Funds allocated for experimental transit projects may be paid to any local governing body, transportation district commission, or public corporation or may be used directly by the Department of

305 Rail and Public Transportation for the following purposes:

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

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

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

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

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

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

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

325 f. The remaining 25 percent shall be distributed for capital purposes on the basis of 95 percent of the  
326 nonfederal share for federal projects and 95 percent of the total costs for nonfederal projects. In the  
327 event that total capital funds available under this subdivision are insufficient to fund the complete list of  
328 eligible projects, the funds shall be distributed to each transit property in the same proportion that such  
329 capital expenditure bears to the statewide total of capital projects. Prior to the annual adoption of the  
330 Six-Year Improvement Program, the Commonwealth Transportation Board may allocate up to 20 percent  
331 of the funds in the Commonwealth Mass Transit Fund designated for capital purposes to transit  
332 operating assistance if operating funds for the next fiscal year are estimated to be less than the current  
333 fiscal year's allocation, to attempt to maintain transit operations at approximately the same level as the  
334 previous fiscal year.

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

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

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

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

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

365 B. 1. The sales and use tax revenue generated by a one percent sales and use tax shall be distributed  
366 among the counties and cities of the Commonwealth in the manner provided in subsections C and D.

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

D. The net revenue so distributable among the counties and cities shall be apportioned and distributed upon the basis 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 population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for individuals receiving services in state hospitals, state training centers, or mental health facilities, persons who are confined in state or federal correctional institutions, or persons who attend the Virginia School for the Deaf and the Blind within the school division in which the parents or guardians of such persons legally reside. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for persons who attend institutions of higher education within the school division in which the student's parents or guardians legally reside. To such estimate, the Department of Education shall add the population of students with disabilities, ages two through four and 20 through 21, as provided to the Department of Education by school divisions. The revenue so apportionable and distributable is hereby appropriated to the several counties and cities for maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the operation of the public schools, which shall be considered as funds raised from local resources. In any county, however, wherein is situated any incorporated town constituting a school division, the county treasurer shall pay into the town treasury for maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the operation of the public schools, the proper proportionate amount received by him in the ratio that the school population of such town bears to the school population of the entire county. If the school population of any city or of any town constituting a school division is increased by the annexation of territory since the last estimate of school population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school population of such city or town as shown by the last such estimate and a proper reduction made in the school population of the county or counties from which the annexed territory was acquired.

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

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

net revenue generated (and collected in the succeeding month) from such one-half percent increase for the month of August 2004 and for each month thereafter.

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

G. *The net revenues generated by one half of the one percent sales and use tax increase enacted by the 2013 Session of the General Assembly shall be distributed as follows:*

1. *Two-thirds of the revenue shall be distributed among the counties and cities of the Commonwealth in the manner provided in subsections C and D; and*

2. *One-third of the revenue shall be used of purposes related to the funding of state institutions of higher education in the Commonwealth.*

H. 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.

H.I. 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 and one-half~~ 22.5 cents (\$0.225) per gallon on gasoline and gasohol ~~through June 30, 2014, and 27.5 cents (\$0.275) after on and after July 1, 2014.~~

*Beginning July 1, 2015, the rate per gallon on gasoline and gasohol shall be adjusted each year on July 1 by a percentage, as determined by the Commissioner and rounded to the nearest one-tenth of one percent, equal to the percentage change in the U.S. Department of Labor's Producer Price Index for Other Nonresidential Construction from January 1 through December 31 of the year immediately preceding the affected year (in relation to the second calendar year immediately preceding the affected year). The Commissioner shall round the rate of tax per gallon to the nearest one-tenth of one cent.*

B. (Contingent expiration date - see Editor's notes) There is hereby levied a tax ~~at the rate of~~ ~~seventeen and one-half cents per gallon~~ on each gallon of diesel fuel ~~at the same rate as the rate in effect pursuant to subsection A.~~

B. (Contingent effective date - see Editor's notes) There is hereby levied a tax ~~at the rate of sixteen cents per gallon~~ on each gallon of diesel fuel ~~at the rate of 1.5 cents (\$0.015) less than the rate in effect pursuant to subsection A.~~

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 ~~imposed on each gallon at the same rate of seventeen and one-half cents per gallon as the rate in effect pursuant to subsection A,~~ along with any penalties and interest that may accrue.

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

E. (Contingent effective date - see Editor's notes) There is hereby levied a tax at the rate of five cents 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 on each gallon at the same rate of~~ ~~sixteen cents per gallon as the rate in effect pursuant to subsection B,~~ along with any penalties and



interest that may accrue.

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

**§ 58.1-2249. Tax on alternative fuel.**

A. (Contingent expiration date - see Editor's notes) There is hereby levied a tax at the *same rate of seventeen and one-half cents per gallon as the rate in effect pursuant to subsection A of § 58.1-2217* on each gallon of liquid alternative fuel used to operate a highway vehicle by means of a vehicle supply tank that stores fuel only for the purpose of supplying fuel to operate the vehicle. There is hereby levied a tax at a rate equivalent to *seventeen and one-half cents per gallon the rate in effect pursuant to subsection A of § 58.1-2217* 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 *same rate of sixteen cents per gallon as the rate in effect pursuant to subsection B of § 58.1-2217* on each gallon of liquid alternative fuel used to operate a highway vehicle by means of a vehicle supply tank that stores fuel only for the purpose of supplying fuel to operate the vehicle. There is hereby levied a tax at a rate equivalent to *sixteen cents per gallon the rate in effect pursuant to subsection B of § 58.1-2217* 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 \$50 per vehicle on each highway vehicle registered in Virginia that is an electric motor vehicle. If such a highway vehicle is registered for a period other than one year as provided under § 46.2-646, the license tax shall be multiplied by the number of years or fraction thereof that the vehicle will be registered.

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

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

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

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

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

C. One-half cent of the tax collected on each gallon of fuel on which the 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 equivalent to ~~\$0.24~~ *3.5 cents (\$0.035) more per gallon than the rate in effect pursuant to subsection A 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 equivalent to ~~nineteen and one-half~~ *3.5 cents (\$0.035) more per gallon than the rate in effect pursuant to subsection B of § 58.1-2217* calculated on the amount of motor fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of sixty degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute), used in its operations within the Commonwealth.

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

B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles that are not registered under the International Registration Plan shall pay a fee of \$100 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.

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

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

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

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

D. The refund may be allowed without a formal hearing if the amount of refund is agreed to by the applicant. Otherwise, a formal hearing on the application shall be held by the Department after notice of not less than ~~ten~~ 10 days to the applicant and the Attorney General.

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

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

**2. Notwithstanding the provisions of subsection A of § 58.1-638 to the contrary, in each of the fiscal years 2014, 2015, 2016, and 2017, \$80 million dollars that would otherwise be paid into the Transportation Trust Fund pursuant to subsection A of § 58.1-638 shall be dedicated to Phase 2 of the Dulles Corridor Metrorail Extension Project, provided, however, that the Metropolitan Washington Airports Authority (MWAA) Board of Directors first address all deficiencies cited in the Office of the Inspector General of the U.S. Department of Transportation's Report on MWAA Governance and the auditor appointed by the U.S. Secretary of Transportation determines that such deficiencies have been addressed**