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SENATE BILL NO. 700

Offered January 9, 2013

Prefiled October 23, 2012

A BILL to amend and reenact §§ 33.1-268, 33.1-269, 33.1-277, 58.1-602, 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.

Patrons—Alexander; Delegate: Spruill

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-268, 33.1-269, 33.1-277, 58.1-602, 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. As used in this section, unless the context requires a different meaning:

"Highway" means a highway, road, tunnel, or bridge.

B. 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.

C. 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.

D. 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 as specifically set forth in the general appropriation act to be financed or funded in whole or in part using moneys from the Fund. For the purpose of identifying such highway projects to be specifically set forth in the general appropriation act, the Commonwealth Transportation Board shall by December 1 of each year make recommendations to the General Assembly of highway projects in each highway construction district to be financed or funded in whole or in part using moneys from the Fund.

Moneys in the Fund shall be used to pay the costs of such highway 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. The costs of such highway projects shall also include any financing costs or other financing expenses relating to such bonds or obligations. In no case, however, shall moneys in the Fund be used to pay debt service or any other costs of bonds or obligations issued or entered into for such highway projects prior to April 1, 2014, or any refinancings of the same.

E. 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.

F. The Commonwealth Transportation Board shall ensure that of the revenues deposited into the Fund, and any interest thereon, over the long term, approximately 38 percent of such revenues shall be

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59 *used for projects in the Northern Virginia highway construction district, 31 percent of such revenues*
60 *shall be used for projects in the Hampton Roads highway construction district, and 31 percent of such*
61 *revenues shall be used for projects in all other highway construction districts in the Commonwealth.*

62 *G. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants*
63 *issued by the Comptroller.*

64 **§ 33.1-268. Definitions.**

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

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

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

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

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

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

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

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

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

81 (i) [Reserved.]

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

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

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

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

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

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

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

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

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

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

120 (u) Any project designated from time to time by the General Assembly financed in whole or part

through the issuance of Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes.

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

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

(x) Any project identified by the Commonwealth Transportation Board to be (i) financed in whole or in part through the issuance of Commonwealth of Virginia Highway Construction Projects Revenue Bonds or (ii) funded in whole or in part by funds from the Highway Construction Projects Trust Fund established pursuant to § 33.1-23.03:11.

(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

182 the project or projects to be financed are located; and third, to the extent required, from other legally
183 available revenues of the Trust Fund and from any other available source of funds;

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

189 4a. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of
190 Virginia Transportation Revenue Bonds," secured, subject to their appropriation by the General
191 Assembly, first from (i) revenues received from the Northern Virginia Transportation District Fund, (ii)
192 to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as
193 provided by law, to the highway construction district in which the project or projects to be financed are
194 located or to the city or county in which the project or projects to be financed are located, (iii) to the
195 extent required, legally available revenues of the Transportation Trust Fund, and (iv) such other funds
196 which may be appropriated by the General Assembly;

197 4b. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of
198 Virginia Transportation Program Revenue Bonds" secured, subject to their appropriation by the General
199 Assembly, first from (i) any revenues received from any Set-aside Fund established by the General
200 Assembly pursuant to § 58.1-816.1, (ii) to the extent required, revenues received pursuant to any
201 contract with a local jurisdiction or any alternative mechanism for generation of local revenues for
202 specific funding of a project satisfactory to the Commonwealth Transportation Board, (iii) to the extent
203 required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by
204 law, to the highway construction district in which the project or projects to be financed are located or to
205 the city or county in which the project or projects to be financed are located, (iv) to the extent required,
206 legally available revenues of the Transportation Trust Fund, and (v) 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 4c. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of
211 Virginia Transportation Program Revenue Bonds" secured, subject to their appropriation by the General
212 Assembly, first from (i) any revenues received from the Commonwealth Transit Capital Fund established
213 by the General Assembly pursuant to subdivision A 4 g of § 58.1-638, (ii) to the extent required,
214 legally available revenues of the Transportation Trust Fund, and (iii) such other funds which may be
215 appropriated by the General Assembly. No bonds for any project or projects shall be issued under the
216 authority of this subsection unless such project or projects are specifically included in a bill or resolution
217 passed by the General Assembly;

218 4d. Issue revenue bonds of the Commonwealth from time to time to be known and designated as
219 "Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes" secured, subject to
220 their appropriation by the General Assembly, (i) first from any federal highway reimbursements and any
221 other federal highway assistance received from time to time by the Commonwealth, (ii) then, at the
222 discretion of the Board, to the extent required, from legally available revenues of the Transportation
223 Trust Fund, and (iii) then from such other funds, if any, which are designated by the General Assembly
224 for such purpose;

225 4e. Issue revenue bonds of the Commonwealth from time to time to be known and designated as
226 "Commonwealth of Virginia Credit Assistance Revenue Bonds," secured, subject to their appropriation
227 by the General Assembly, solely from revenues with respect to or generated by the project or projects
228 being financed thereby and any tolls or other revenues pledged by the Board as security therefor and in
229 accordance with the applicable federal credit assistance authorized with respect to such project or
230 projects by the United States Department of Transportation;

231 4f. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of
232 Virginia Transportation Capital Projects Revenue Bonds," secured, subject to their appropriation by the
233 General Assembly, (i) from the revenues deposited into the Priority Transportation Fund established
234 pursuant to § 33.1-23.03:8; (ii) to the extent required, from revenues legally available from the
235 Transportation Trust Fund; and (iii) to the extent required, from any other legally available funds;

236 4g. Issue grant anticipation notes of the Commonwealth from time to time to be known and
237 designated as "Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes"
238 secured, subject to their appropriation by the General Assembly, (i) first from the project-specific
239 reimbursements pursuant to § 33.1-23.23; (ii) then, at the discretion of the Board, to the extent required,
240 from legally available revenues of the Transportation Trust Fund; and (iii) then from such other funds, if
241 any, which are designated by the General Assembly for such purpose;

242 4h. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of
243 Virginia Highway Construction Projects Revenue Bonds," secured, 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;

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

6. Construct grade separations at intersections of any projects with public highways, streets or other public ways or places and change and adjust the lines and grades thereof so as to accommodate the 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 article shall not directly or indirectly or contingently obligate the Commonwealth to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment, other than appropriate available funds derived as revenues from tolls and charges under this article or derived from bond proceeds or earnings thereon and from any other available sources of funds.

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

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

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

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

F. Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes issued under this

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

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

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

I. Commonwealth of Virginia 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 clause (i) of 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.*

§ 58.1-602. Definitions.

As used in this chapter, unless the context clearly shows otherwise, the term or phrase:

"Advertising" means the planning, creating, or placing of advertising in newspapers, magazines, billboards, broadcasting and other media, including, without limitation, the providing of concept, writing, graphic design, mechanical art, photography and production supervision. Any person providing advertising as defined herein shall be deemed to be the user or consumer of all tangible personal property purchased for use in such advertising.

"Amplification, transmission and distribution equipment" means, but is not limited to, production, distribution, and other equipment used to provide Internet-access services, such as computer and communications equipment and software used for storing, processing and retrieving end-user subscribers' requests.

"Business" includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either directly or indirectly.

"Cost price" means the actual cost of an item or article of tangible personal property computed in the same manner as the sales price as defined in this section without any deductions therefrom on account of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever.

"Custom program" means a computer program which is specifically designed and developed only for one customer. The combining of two or more prewritten programs does not constitute a custom computer program. A prewritten program that is modified to any degree remains a prewritten program and does not become custom.

"Distribution" means the transfer or delivery of tangible personal property for use, consumption, or storage by the distributee, and the use, consumption, or storage of tangible personal property by a person who has processed, manufactured, refined, or converted such property, but does not include the transfer or delivery of tangible personal property for resale or any use, consumption, or storage

otherwise exempt under this chapter.

"Gross proceeds" means the charges made or voluntary contributions received for the lease or rental of tangible personal property or for furnishing services, computed with the same deductions, where applicable, as for sales price as defined in this section over the term of the lease, rental, service, or use, but not less frequently than monthly.

"Gross sales" means the sum total of all retail sales of tangible personal property or services as defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" shall not include the federal retailers' excise tax or ~~the any federal diesel fuel excise tax imposed in § 4091 under § 4081~~ of the Internal Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the article, or the Virginia retail sales or use tax, or any sales or use tax imposed by any county or city under § 58.1-605 or 58.1-606. *"Gross sales" shall not include any tax imposed pursuant to Chapter 22 (§ 58.1-2200 et seq.) of this title.*

"Import" and "imported" are words applicable to tangible personal property imported into the Commonwealth from other states as well as from foreign countries, and "export" and "exported" are words applicable to tangible personal property exported from the Commonwealth to other states as well as to foreign countries.

"In this Commonwealth" or "in the Commonwealth" means within the limits of the Commonwealth of Virginia and includes all territory within these limits owned by or ceded to the United States of America.

"Integrated process," when used in relation to semiconductor manufacturing, means a process that begins with the research or development of semiconductor products, equipment, or processes, includes the handling and storage of raw materials at a plant site, and continues to the point that the product is packaged for final sale and either shipped or conveyed to a warehouse. Without limiting the foregoing, any semiconductor equipment, fuel, power, energy, supplies, or other tangible personal property shall be deemed used as part of the integrated process if its use contributes, before, during, or after production, to higher product quality, production yields, or process efficiencies. Except as otherwise provided by law, such term shall not mean general maintenance or administration.

"Internet" means collectively, the myriad of computer and telecommunications facilities, which comprise the interconnected world-wide network of computer networks.

"Internet service" means a service that enables users to access proprietary and other content, information electronic mail, and the Internet as part of a package of services sold to end-user subscribers.

"Lease or rental" means the leasing or renting of tangible personal property and the possession or use thereof by the lessee or renter for a consideration, without transfer of the title to such property.

"Manufacturing, processing, refining, or conversion" includes the production line of the plant starting with the handling and storage of raw materials at the plant site and continuing through the last step of production where the product is finished or completed for sale and conveyed to a warehouse at the production site, and also includes equipment and supplies used for production line testing and quality control. The term "manufacturing" shall also include the necessary ancillary activities of newspaper and magazine printing when such activities are performed by the publisher of any newspaper or magazine for sale daily or regularly at average intervals not exceeding three months.

The determination whether any manufacturing, mining, processing, refining or conversion activity is industrial in nature shall be made without regard to plant size, existence or size of finished product inventory, degree of mechanization, amount of capital investment, number of employees or other factors relating principally to the size of the business. Further, "industrial in nature" shall include, but not be limited to, those businesses classified in codes 10 through 14 and 20 through 39 published in the Standard Industrial Classification Manual for 1972 and any supplements issued thereafter.

"Modular building" means, but shall not be limited to, single and multifamily houses, apartment units, commercial buildings, and permanent additions thereof, comprised of one or more sections that are intended to become real property, primarily constructed at a location other than the permanent site, built to comply with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.) as regulated by the Virginia Department of Housing and Community Development, and shipped with most permanent components in place to the site of final assembly. For purposes of this chapter, a modular building shall not include a mobile office as defined in § 58.1-2401 or any manufactured building subject to and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.).

"Modular building manufacturer" means a person or corporation who owns or operates a manufacturing facility and is engaged in the fabrication, construction and assembling of building supplies and materials into modular buildings, as defined in this section, at a location other than at the site where the modular building will be assembled on the permanent foundation and may or may not be engaged in the process of affixing the modules to the foundation at the permanent site.

"Modular building retailer" means any person who purchases or acquires a modular building from a

modular building manufacturer, or from another person, for subsequent sale to a customer residing within or outside of the Commonwealth, with or without installation of the modular building to the foundation at the permanent site.

"Motor vehicle" means a "motor vehicle" as defined in § 58.1-2401, taxable under the provisions of the Virginia Motor Vehicles Sales and Use Tax Act (§ 58.1-2400 et seq.) and upon the sale of which all applicable motor vehicle sales and use taxes have been paid.

"Occasional sale" means a sale of tangible personal property not held or used by a seller in the course of an activity for which he is required to hold a certificate of registration, including the sale or exchange of all or substantially all the assets of any business and the reorganization or liquidation of any business, provided such sale or exchange is not one of a series of sales and exchanges sufficient in number, scope and character to constitute an activity requiring the holding of a certificate of registration.

"Open video system" means an open video system authorized pursuant to 47 U.S.C. § 573 and, for purposes of this chapter only, shall also include Internet service regardless of whether the provider of such service is also a telephone common carrier.

"Person" includes any individual, firm, copartnership, cooperative, nonprofit membership corporation, joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver, auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit, body politic or political subdivision, whether public or private, or quasi-public, and the plural of such term shall mean the same as the singular.

"Prewritten program" means a computer program that is prepared, held or existing for general or repeated sale or lease, including a computer program developed for in-house use and subsequently sold or leased to unrelated third parties.

"Railroad rolling stock" means locomotives, of whatever motive power, autocars, railroad cars of every kind and description, and all other equipment determined by the Tax Commissioner to constitute railroad rolling stock.

"Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in the form of tangible personal property or services taxable under this chapter, and shall include any such transaction as the Tax Commissioner upon investigation finds to be in lieu of a sale. All sales for resale must be made in strict compliance with regulations applicable to this chapter. Any dealer making a sale for resale which is not in strict compliance with such regulations shall be personally liable for payment of the tax.

The terms "retail sale" and a "sale at retail" shall specifically include the following: (i) the sale or charges for any room or rooms, lodgings, or accommodations furnished to transients for less than 90 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration; (ii) sales of tangible personal property to persons for resale when because of the operation of the business, or its very nature, or the lack of a place of business in which to display a certificate of registration, or the lack of a place of business in which to keep records, or the lack of adequate records, or because such persons are minors or transients, or because such persons are engaged in essentially service businesses, or for any other reason there is likelihood that the Commonwealth will lose tax funds due to the difficulty of policing such business operations; and (iii) the separately stated charge made for automotive refinish repair materials that are permanently applied to or affixed to a motor vehicle during its repair. The Tax Commissioner is authorized to promulgate regulations requiring vendors of or sellers to such persons to collect the tax imposed by this chapter on the cost price of such tangible personal property to such persons and may refuse to issue certificates of registration to such persons.

The term "transient" shall not include a purchaser of camping memberships, time-shares, condominiums, or other similar contracts or interests that permit the use of, or constitute an interest in, real estate, however created or sold and whether registered with the Commonwealth or not. Further, a purchaser of a right or license which entitles the purchaser to use the amenities and facilities of a specific real estate project on an ongoing basis throughout its term shall not be deemed a transient; provided, however, that the term or time period involved is for seven years or more.

The terms "retail sale" and "sale at retail" shall not include a transfer of title to tangible personal property after its use as tools, tooling, machinery or equipment, including dies, molds, and patterns, if (i) at the time of purchase, the purchaser is obligated, under the terms of a written contract, to make the transfer and (ii) the transfer is made for the same or a greater consideration to the person for whom the purchaser manufactures goods.

"Retailer" means every person engaged in the business of making sales at retail, or for distribution, use, consumption, or storage to be used or consumed in the Commonwealth.

"Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property and any

rendition of a taxable service for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication, and the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.

"Sales price" means the total amount for which tangible personal property or services are sold, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, losses or any other expenses whatsoever. "Sales price" shall not include (i) any cash discount allowed and taken; (ii) finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other conditional contracts providing for deferred payments of the purchase price; (iii) separately stated local property taxes collected; (iv) that portion of the amount paid by the purchaser as a discretionary gratuity added to the price of a meal; or (v) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by a restaurant to the price of a meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20% of the price of the meal. Where used articles are taken in trade, or in a series of trades as a credit or part payment on the sale of new or used articles, the tax levied by this chapter shall be paid on the net difference between the sales price of the new or used articles and the credit for the used articles.

"Semiconductor cleanrooms" means the integrated systems, fixtures, piping, partitions, flooring, lighting, equipment, and all other property used to reduce contamination or to control airflow, temperature, humidity, vibration, or other environmental conditions required for the integrated process of semiconductor manufacturing.

"Semiconductor equipment" means (i) machinery or tools or repair parts or replacements thereof; (ii) the related accessories, components, pedestals, bases, or foundations used in connection with the operation of the equipment, without regard to the proximity to the equipment, the method of attachment, or whether the equipment or accessories are affixed to the realty; (iii) semiconductor wafers and other property or supplies used to install, test, calibrate or recalibrate, characterize, condition, measure, or maintain the equipment and settings thereof; and (iv) equipment and supplies used for quality control testing of product, materials, equipment, or processes; or the measurement of equipment performance or production parameters regardless of where or when the quality control, testing, or measuring activity takes place, how the activity affects the operation of equipment, or whether the equipment and supplies come into contact with the product.

"Storage" means any keeping or retention of tangible personal property for use, consumption or distribution in the Commonwealth, or for any purpose other than sale at retail in the regular course of business.

"Tangible personal property" means personal property which may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. The term "tangible personal property" shall not include stocks, bonds, notes, insurance or other obligations or securities. The term "tangible personal property" shall include (i) telephone calling cards upon their initial sale, which shall be exempt from all other state and local utility taxes, and (ii) manufactured signs.

"Use" means the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it does not include the sale at retail of that property in the regular course of business. The term does not include the exercise of any right or power, including use, distribution, or storage, over any tangible personal property sold to a nonresident donor for delivery outside of the Commonwealth to a nonresident recipient pursuant to an order placed by the donor from outside the Commonwealth via mail or telephone. The term does not include any sale determined to be a gift transaction, subject to tax under § 58.1-604.6.

"Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as herein defined.

"Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers to those activities which are an integral part of the production of a product, including all steps of an integrated manufacturing or mining process, but not including ancillary activities such as general maintenance or administration. When used in relation to mining, it shall refer to the activities specified above, and in addition, any reclamation activity of the land previously mined by the mining company required by state or federal law.

"Video programmer" means a person or entity that provides video programming to end-user subscribers.

"Video programming" means video and/or information programming provided by or generally considered comparable to programming provided by a cable operator including, but not limited to,

Internet service.

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

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

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

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

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

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.

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

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

B. The council of any city and the governing body of any county may levy a general retail sales 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 sales tax imposed by §§ 58.1-603 and 58.1-604 and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed on a local sales tax. *No city or county shall levy the tax authorized under this section on fuels that are also subject to the tax imposed by Chapter 22 (§ 58.1-2200 et seq.).*

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

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

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

693 F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in
694 any month for the preceding month, the Comptroller shall draw his warrant on the Treasurer of Virginia
695 in the proper amount in favor of each city or county entitled to the monthly return of its local sales tax
696 moneys, and such payments shall be charged to the account of each such city or county under the
697 special fund created by this section. If errors are made in any such payment, or adjustments are
698 otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall
699 be corrected and adjustments made in the payments for the next two months as follows: one-half of the
700 total adjustment shall be included in the payments for the next two months. In addition, the payment
701 shall include a refund of amounts erroneously not paid to the city or county and not previously refunded
702 during the three years preceding the discovery of the error. A correction and adjustment in payments
703 described in this subsection due to the misallocation of funds by the dealer shall be made within three
704 years of the date of the payment error.

705 G. Such payments to counties are subject to the qualification that in any county wherein is situated
706 any incorporated town constituting a special school district and operated as a separate school district
707 under a town school board of three members appointed by the town council, the county treasurer shall
708 pay into the town treasury for general governmental purposes the proper proportionate amount received
709 by him in the ratio that the school age population of such town bears to the school age population of
710 the entire county. If the school age population of any town constituting a separate school district is
711 increased by the annexation of territory since the last estimate of school age population provided by the
712 Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added
713 to the school age population of such town as shown by the last such estimate and a proper reduction
714 made in the school age population of the county or counties from which the annexed territory was
715 acquired.

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

731 I. Notwithstanding the provisions of subsection H, the board of supervisors of a county may, in its
732 discretion, appropriate funds to any incorporated town not constituting a separate school district within
733 such county which has not complied with the provisions of its charter relating to the elections of its
734 council and mayor, an amount not to exceed the amount it would have received from the tax imposed
735 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 also 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 county of possible use by the purchasers. However, the local use tax authorized by this section shall apply to tangible personal property purchased without this Commonwealth for use or consumption within the city or county imposing the local use tax, or stored within the city or county for use or consumption, where the property would have been subject to the sales tax if it had been purchased within this Commonwealth. The local use tax shall also apply to leases or rentals of tangible personal property where the place of business of the lessor is without this Commonwealth and such leases or rentals are subject to the state tax. Moreover, the local use tax shall apply in all cases in which the state use tax applies.

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

F. Local use tax revenue shall be distributed among the cities and counties for which it is collected, respectively, as shown by the records of the Department, and the procedure shall be the same as that prescribed for distribution of local sales tax revenue under § 58.1-605. The local use tax revenue that is not accurately assignable to a particular city or county shall be distributed monthly by the appropriate state authorities among the cities and counties in this Commonwealth imposing the local use tax upon the basis of taxable retail sales in the respective cities and counties in which the local sales and use tax was in effect in the taxable month involved, as shown by the records of the Department, and computed with respect to taxable retail sales as reflected by the amounts of the local sales tax revenue distributed among such cities and counties, respectively, in the month of distribution. Notwithstanding any other provision of this section, the Tax Commissioner shall develop a uniform method to distribute local use tax. Any significant changes to the method of local use tax distribution shall be phased in over a

797 five-year period. Distribution information shall be shared with the affected localities prior to
798 implementation of the changes.

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

801 **§ 58.1-609.1. Governmental and commodities exemptions.**

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

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

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

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

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

818 5. Aircraft subject to tax under Chapter 15 (§ 58.1-1500 et seq.).

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

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

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

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

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

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

832 12. Tangible personal property for use or consumption by the Virginia Department for the Blind and
833 Vision Impaired or any nominee, as defined in § 51.5-60, of such Department.

834 13. [Expired.]

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

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

840 16. Tangible personal property purchased for use or consumption by any soil and conservation
841 district which is organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter
842 5 of Title 10.1.

843 17. Tangible personal property sold or leased to Alexandria Transit Company, Greater Lynchburg
844 Transit Company, GRTC Transit System, or Greater Roanoke Transit Company, or to any other transit
845 company that is owned, operated, or controlled by any county, city, or town, or any combination
846 thereof, that provides public transportation services, and/or tangible personal property sold or leased to
847 any county, city, or town, or any combination thereof, that is transferred to any of the companies set
848 forth in this subdivision owned, operated, or controlled by any county, city, or town, or any combination
849 thereof, that provides public transportation services.

850 18. (Effective until July 1, 2017) Qualified products designated as Energy Star or WaterSense with a
851 sales price of \$2,500 or less per product purchased for noncommercial home or personal use. The
852 exemption provided by this subdivision shall apply only to sales occurring during the four-day period
853 that begins each year on the Friday before the second Monday in October and ends at midnight on the
854 second Monday in October.

855 For the purposes of this exemption, an Energy Star qualified product is any dishwasher, clothes
856 washer, air conditioner, ceiling fan, compact fluorescent light bulb, dehumidifier, programmable
857 thermostat, or refrigerator, the energy efficiency of which has been designated by the United States
858 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 by electronic media, to its client or to third parties in the course of the professional's rendition of services to its clientele.

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

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

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

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

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

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

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

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

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

944 16. Tangible personal property purchased by nonprofit churches that are exempt from taxation under
945 § 501(c) (3) of the Internal Revenue Code, or whose real property is exempt from local taxation
946 pursuant to the provisions of § 58.1-3606, for use (i) in religious worship services by a congregation or
947 church membership while meeting together in a single location and (ii) in the libraries, offices, meeting
948 or counseling rooms or other rooms in the public church buildings used in carrying out the work of the
949 church and its related ministries, including kindergarten, elementary and secondary schools. The
950 exemption for such churches shall also include baptistries; bulletins, programs, newspapers and
951 newsletters that do not contain paid advertising and are used in carrying out the work of the church;
952 gifts including food for distribution outside the public church building; food, disposable serving items,
953 cleaning supplies and teaching materials used in the operation of camps or conference centers by the
954 church or an organization composed of churches that are exempt under this subdivision and which are
955 used in carrying out the work of the church or churches; and property used in caring for or maintaining
956 property owned by the church including, but not limited to, mowing equipment; and building materials
957 installed by the church, and for which the church does not contract with a person or entity to have
958 installed, in the public church buildings used in carrying out the work of the church and its related
959 ministries, including, but not limited to worship services; administrative rooms; and kindergarten,
960 elementary, and secondary schools.

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

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

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

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

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

976 22. *"Dyed diesel fuel," except cases in which such fuel is used to operate a highway vehicle for a*
977 *taxable use under this chapter other than a use allowed under § 4082 of the Internal Revenue Code of*
978 *1954, as amended or renumbered. "Dyed diesel fuel," "highway vehicle," and "use" mean the same as*
979 *those terms are defined in § 58.1-2201.*

980 **§ 58.1-638. Disposition of state sales and use tax revenue; localities' share.**

981 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 14.7 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.

1043 4. There is hereby created in the Department of the Treasury a special nonreverting fund which shall
1044 be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Mass
1045 Transit Fund.

1046 a. The Commonwealth Mass Transit Fund shall be established on the books of the Comptroller and
1047 any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but
1048 shall remain in the Fund. Interest earned on such funds shall be credited to the Fund. Funds may be
1049 paid to any local governing body, transportation district commission, or public service corporation for
1050 the purposes hereinafter specified.

1051 b. The amounts allocated pursuant to this section shall be used to support the public transportation
1052 administrative costs and the costs borne by the locality for the purchase of fuels, lubricants, tires and
1053 maintenance parts and supplies for public transportation at a state share of 80 percent in 2002 and 95
1054 percent in 2003 and succeeding years. These amounts may be used to support up to 95 percent of the
1055 local or nonfederal share of capital project costs for public transportation and ridesharing equipment,
1056 facilities, and associated costs. Capital costs may include debt service payments on local or agency
1057 transit bonds. The term "borne by the locality" means the local share eligible for state assistance
1058 consisting of costs in excess of the sum of fares and other operating revenues plus federal assistance
1059 received by the locality.

1060 c. Commonwealth Mass Transit Fund revenue shall be allocated by the Commonwealth
1061 Transportation Board as follows:

1062 (1) Funds for special programs, which shall include ridesharing, experimental transit, and technical
1063 assistance, shall not exceed 1.5 percent of the Fund.

1064 (2) The Board may allocate these funds to any locality or planning district commission to finance up
1065 to 80 percent of the local share of all costs associated with the development, implementation, and
1066 continuation of ridesharing programs.

1067 (3) Funds allocated for experimental transit projects may be paid to any local governing body,
1068 transportation district commission, or public corporation or may be used directly by the Department of
1069 Rail and Public Transportation for the following purposes:

1070 (a) To finance up to 95 percent of the capital costs related to the development, implementation and
1071 promotion of experimental public transportation and ridesharing projects approved by the Board.

1072 (b) To finance up to 95 percent of the operating costs of experimental mass transportation and
1073 ridesharing projects approved by the Board for a period of time not to exceed 12 months.

1074 (c) To finance up to 95 percent of the cost of the development and implementation of any other
1075 project designated by the Board where the purpose of such project is to enhance the provision and use
1076 of public transportation services.

1077 d. Funds allocated for public transportation promotion and operation studies may be paid to any local
1078 governing body, planning district commission, transportation district commission, or public transit
1079 corporation, or may be used directly by the Department of Rail and Public Transportation for the
1080 following purposes and aid of public transportation services:

1081 (1) At the approval of the Board to finance a program administered by the Department of Rail and
1082 Public Transportation designed to promote the use of public transportation and ridesharing throughout
1083 Virginia.

1084 (2) To finance up to 50 percent of the local share of public transportation operations planning and
1085 technical study projects approved by the Board.

1086 e. At least 73.5 percent of the Fund shall be distributed to each transit property in the same
1087 proportion as its operating expenses bear to the total statewide operating expenses and shall be spent for
1088 the purposes specified in subdivision 4 b.

1089 f. The remaining 25 percent shall be distributed for capital purposes on the basis of 95 percent of the
1090 nonfederal share for federal projects and 95 percent of the total costs for nonfederal projects. In the
1091 event that total capital funds available under this subdivision are insufficient to fund the complete list of
1092 eligible projects, the funds shall be distributed to each transit property in the same proportion that such
1093 capital expenditure bears to the statewide total of capital projects. Prior to the annual adoption of the
1094 Six-Year Improvement Program, the Commonwealth Transportation Board may allocate up to 20 percent
1095 of the funds in the Commonwealth Mass Transit Fund designated for capital purposes to transit
1096 operating assistance if operating funds for the next fiscal year are estimated to be less than the current
1097 fiscal year's allocation, to attempt to maintain transit operations at approximately the same level as the
1098 previous fiscal year.

1099 g. There is hereby created in the Department of the Treasury a special nonreverting fund known as
1100 the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the
1101 Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be
1102 established on the books of the Comptroller and consist of such moneys as are appropriated to it by the
1103 General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given,
1104 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 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 also 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 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

1166 proportionate amount received by him in the ratio that the school population of such town bears to the
1167 school population of the entire county. If the school population of any city or of any town constituting a
1168 school division is increased by the annexation of territory since the last estimate of school population
1169 provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this
1170 section, be added to the school population of such city or town as shown by the last such estimate and a
1171 proper reduction made in the school population of the county or counties from which the annexed
1172 territory was acquired.

1173 E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a
1174 two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of
1175 hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment,
1176 wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the
1177 most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of
1178 Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated
1179 Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used,
1180 in part, to defray the cost of law enforcement. Not later than 30 days after the close of each quarter, the
1181 Comptroller shall transfer to the Game Protection Fund the appropriate amount of collections to be
1182 dedicated to such Fund. At any time that the balance in the Capital Improvement Fund, established
1183 under § 29.1-101.01, is equal to or in excess of \$35 million, any portion of sales and use tax revenues
1184 that would have been transferred to the Game Protection Fund, established under § 29.1-101, in excess
1185 of the net operating expenses of the Board, after deduction of other amounts which accrue to the Board
1186 and are set aside for the Game Protection Fund, shall remain in the general fund until such time as the
1187 balance in the Capital Improvement Fund is less than \$35 million.

1188 F. 1. Of the net revenue generated from the one-half percent increase in the rate of the state sales
1189 and use tax effective August 1, 2004, pursuant to enactments of the 2004 Special Session I of the
1190 General Assembly, the Comptroller shall transfer from the general fund of the state treasury to the
1191 Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund established under
1192 § 58.1-638.1 an amount equivalent to one-half of the net revenue generated from such one-half percent
1193 increase as provided in this subdivision. The transfers to the Public Education Standards of
1194 Quality/Local Real Estate Property Tax Relief Fund under this subdivision shall be for one-half of the
1195 net revenue generated (and collected in the succeeding month) from such one-half percent increase for
1196 the month of August 2004 and for each month thereafter.

1197 2. For the purposes of the Comptroller making the required transfers under subdivision 1, the Tax
1198 Commissioner shall make a written certification to the Comptroller no later than the twenty-fifth of each
1199 month certifying the sales and use tax revenues generated in the preceding month. Within three calendar
1200 days of receiving such certification, the Comptroller shall make the required transfers to the Public
1201 Education Standards of Quality/Local Real Estate Property Tax Relief Fund.

1202 G. *Of the sales and use tax revenue generated by the imposition of the tax under this chapter on*
1203 *fuels that are also subject to the tax imposed under Chapter 22 (§ 58.1-2200 et seq.), \$250 million each*
1204 *year shall be deposited into the Highway Maintenance and Operating Fund and the remainder each*
1205 *year shall be deposited into the Highway Construction Projects Trust Fund established under*
1206 *§ 33.1-23.03:11. For the purposes of such deposits, beginning with the month of January 2014 and for*
1207 *each month thereafter, the Comptroller shall deposit into the Highway Maintenance and Operating Fund*
1208 *one-twelfth of the annual amount required to be deposited to such Fund pursuant to this subsection.*
1209 *Beginning with the month of February 2014 and for each month thereafter, the Comptroller shall make*
1210 *deposits to the Highway Construction Projects Trust Fund for the remainder of the sales and use tax*
1211 *revenues generated in the preceding month from the imposition of the tax under this chapter on fuels*
1212 *that are also subject to the tax imposed under Chapter 22 (§ 58.1-2200 et seq.). For purposes of the*
1213 *deposits to the Highway Construction Projects Trust Fund, the Tax Commissioner shall make a written*
1214 *certification to the Comptroller no later than the twentieth day of each month certifying the sales and*
1215 *use tax revenues generated in the preceding month to be deposited into such Fund. Within eight*
1216 *calendar days of receiving such certification, the Comptroller shall make the required deposits into the*
1217 *Highway Construction Projects Trust Fund.*

1218 G. H. If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall
1219 be corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.

1220 H. I. The term "net revenue," as used in this section, means the gross revenue received into the
1221 general fund or the Transportation Trust Fund of the state treasury under the preceding sections of this
1222 chapter, less refunds to taxpayers.

1223 **§ 58.1-2217. Taxes levied; rate.**

1224 A. There is hereby levied a tax at the rate of ~~seventeen~~ *twelve* and one-half cents (\$.125) per gallon
1225 on gasoline and gasohol.

1226 B. (Contingent expiration date - see Editor's notes) There is hereby levied a tax at the rate of
1227 ~~seventeen~~ *twelve* and one-half cents (\$.125) 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 (\$0.11) 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 (\$0.05) per gallon on aviation gasoline. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation gasoline shall be liable for the tax at the rate of ~~seventeen~~ *twelve* and one-half cents (\$0.125) 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 (\$0.05) per gallon on aviation jet fuel purchased or acquired for use by a user of aviation fuel other than an aviation consumer. There is hereby levied a tax at the rate of five cents (\$0.05) per gallon upon the first 100,000 gallons of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by any aviation consumer in any fiscal year. There is hereby levied a tax at the rate of one-half cent (\$0.005) 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 (\$0.125) 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 (\$0.05) per gallon on aviation jet fuel purchased or acquired for use by a user of aviation fuel other than an aviation consumer. There is hereby levied a tax at the rate of five cents (\$0.05) per gallon upon the first 100,000 gallons of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by any aviation consumer in any fiscal year. There is hereby levied a tax at the rate of one-half cent (\$0.005) 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 (\$0.11) 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 (\$0.125) 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 (\$0.125) per gallon on ~~all~~ *any* 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 (\$0.11) 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 (\$0.11) per gallon on ~~all~~ *any* 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.

§ 58.1-2261. Refund procedure; investigations.

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

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

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

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

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

§ 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 (\$0.005) 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 (\$0.015) 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 (\$0.015) 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 ~~\$0.21~~ *three and one-half 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~~ 60 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~~ *three and one-half 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~~ 60 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~~ *the rate in effect pursuant to subsection B of § 58.1-2217* on all

motor fuel, diesel fuel and liquefied gases purchased by such carrier within the Commonwealth for use in its operations either within or without the Commonwealth and upon which the motor fuel, diesel fuel or liquefied gases tax imposed by the laws of the Commonwealth has been paid by such carrier. Evidence of the payment of such tax in such form as may be required by, or is satisfactory to, the Department shall be furnished by each carrier claiming the credit herein allowed.

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

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

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

E. Whenever any refund is ordered it shall be paid out of the Highway Maintenance and Construction 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. That the Commonwealth Transportation Board is authorized to issue bonds for transportation projects throughout the Commonwealth as follows:

§ 1. Title. This Act shall be known and may be cited as the "Commonwealth Highway Construction Projects Bond Act of 2014."

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

§ 3. The net proceeds of the Bonds shall be used exclusively for the purpose of providing funds for paying the costs incurred or to be incurred for the construction, acquisition, reconstruction, or replacement of or improvements or additions to highway, road, tunnel, or bridge projects as specifically set forth in the general appropriation act to be financed or funded in whole or in part using moneys from the Highway Construction Projects Trust Fund established pursuant to § 33.1-23.03:11 of the Code of Virginia. The costs of such projects shall include, but are not limited to, environmental and engineering studies, rights-of-way acquisition, or any financing costs or other financing expenses relating to such Bonds.

§ 4. The proceeds of the Bonds, including any premium received on the sale thereof, shall be made available by the Commonwealth Transportation Board to pay costs of the projects and, where appropriate, may be paid to any authority, locality, commission, or other entity for the purposes of paying for costs of the projects. The proceeds of the Bonds may be used together with any federal, local, or private funds that may be made available for such purpose. The proceeds of the Bonds, together with any investment earnings thereon, may, at the discretion of the Commonwealth Transportation Board, secure the payment of principal or purchase price of and redemption premium, if any, and interest on the Bonds.

§ 5. The terms and structure of each issue of the Bonds shall be determined by the Commonwealth Transportation Board, subject to approval by the Treasury Board in accordance with § 2.2-2416 of the Code of Virginia, as amended. The Bonds of each issue shall be dated; shall be issued in a principal amount (subject to the limitations set forth in § 2); shall bear interest at such rate or rates, which may be fixed, adjustable, variable, or a combination thereof and may be determined by a formula or other method; shall mature at such time or times not exceeding 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 amended, to pay a part of the costs of the projects or to pay principal or purchase price of and redemption premium, if any, and interest on the Bonds.

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

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

§ 13. The interest income from and any profit made on the sale of the obligations issued under the

1535 *provisions of this Act shall at all times be free and exempt from taxation by the Commonwealth and by*
1536 *any municipality, county, or other political subdivision thereof.*

1537 *§ 14. All obligations issued under the provisions of this Act are hereby made securities in which all*
1538 *persons and entities listed in § 33.1-280 of the Code of Virginia, as amended, may properly and legally*
1539 *invest funds under their control.*

1540 **3. That the Department of Taxation shall develop and make publicly available guidelines for the**
1541 **imposition of the retail sales and use tax on certain fuels transactions pursuant to the provisions of**
1542 **this act. The guidelines shall include a bracket system, designed so that such tax shall appear on**
1543 **the fuel pump or other fuel-dispensing mechanism as a part of the total cost of a unit of fuel,**
1544 **whether the unit is a gallon or other measure. The bracket system shall state the tax per unit**
1545 **measure in tenths of a cent, and shall be in increments as determined by the Tax Commissioner.**
1546 **In developing such guidelines, the Department shall not be subject to the provisions of the**
1547 **Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).**

1548 **4. That the provisions of this act shall become effective on January 1, 2014.**