

## VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 33.2-2400, 33.2-2401, 33.2-2509, 58.1-638, 58.1-811, as it is currently effective, 58.1-815.4, as it is currently effective and as it may become effective, 58.1-1741, as it is currently effective, 58.1-2289, as it is currently effective, 58.1-2299.20, as it is currently effective, and 58.1-3221.3 of the Code of Virginia; to amend and reenact § 3 of the second enactment of Chapter 896 of the Acts of Assembly of 2007, as amended by Chapter 830 of the Acts of Assembly of 2011; to amend and reenact the twelfth enactment of Chapter 684 of the Acts of Assembly of 2015; to amend the Code of Virginia by adding a section numbered 33.2-214.3, by adding in Article 5 of Chapter 2 of Title 33.2 a section numbered 33.2-286, by adding a section numbered 33.2-1526.1, by adding in Article 11 of Chapter 19 of Title 33.2 a section numbered 33.2-1936, by adding in Title 33.2 a chapter numbered 31.01, consisting of a section numbered 33.2-3100.1, by adding in Title 33.2 a chapter numbered 34, consisting of sections numbered 33.2-3400 through 33.2-3404, by adding in Title 33.2 a chapter numbered 35, consisting of sections numbered 33.2-3500, 33.2-3501, and 33.2-3502, by adding a section numbered 58.1-802.3, and by adding in Chapter 17 of Title 58.1 an article numbered 11, consisting of sections numbered 58.1-1743 and 58.1-1744; to amend the second enactment of Chapter 896 of the Acts of Assembly of 2007, as amended by Chapter 830 of the Acts of Assembly of 2011, by adding sections numbered 3.1 and 3.2; and to repeal § 58.1-802.2 and Article 10 (§ 58.1-1742) of Chapter 17 of Title 58.1 of the Code of Virginia, relating to mass transit in the Commonwealth.

[S 856]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.2-2400, 33.2-2401, 33.2-2509, 58.1-638, 58.1-811, as it is currently effective, 58.1-815.4, as it is currently effective and as it may become effective, 58.1-1741, as it is currently effective, 58.1-2289, as it is currently effective, 58.1-2299.20, as it is currently effective, and 58.1-3221.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 33.2-214.3, by adding in Article 5 of Chapter 2 of Title 33.2 a section numbered 33.2-286, by adding a section numbered 33.2-1526.1, by adding in Article 11 of Chapter 19 of Title 33.2 a section numbered 33.2-1936, by adding in Title 33.2 a chapter numbered 31.01, consisting of a section numbered 33.2-3100.1, by adding in Title 33.2 a chapter numbered 34, consisting of sections numbered 33.2-3400 through 33.2-3404, by adding in Title 33.2 a chapter numbered 35, consisting of sections numbered 33.2-3500, 33.2-3501, and 33.2-3502, by adding a section numbered 58.1-802.3, and by adding in Chapter 17 of Title 58.1 an article numbered 11, consisting of sections numbered 58.1-1743 and 58.1-1744, as follows:

§ 33.2-214.3. *Statewide prioritization for the Commonwealth Mass Transit Fund.*

A. 1. The Board shall develop a prioritization process for the use of funds allocated pursuant to subdivision C 2 of § 33.2-1526.1. Such prioritization process shall be used for the development of the Six-Year Improvement Program adopted annually by the Board pursuant to § 33.2-214. There shall be a separate prioritization process for state of good repair projects and major expansion projects. The prioritization process shall, for state of good repair projects, be based upon transit asset management principles, including federal requirements for Transit Asset Management pursuant to 49 U.S.C. § 5326. The prioritization process shall, for major expansion projects, be based on an objective and quantifiable analysis that considers the following factors relative to the cost of a major expansion project: congestion mitigation, economic development, accessibility, safety, environmental quality, and land use.

2. The Board shall solicit input from localities, metropolitan planning organizations, transit authorities, transportation authorities, and other stakeholders in its development of the prioritization process pursuant to this subsection. Further, the Board shall explicitly consider input provided by an applicable metropolitan planning organization or the Northern Virginia Transportation Authority when developing the prioritization process set forth in subdivision 1 for a metropolitan planning area with a population of over 200,000 individuals.

B. 1. The Board shall create for the Department of Rail and Public Transportation a Transit Service Delivery Advisory Committee, consisting of two members appointed by the Virginia Transit Association, one member appointed by the Community Transportation Association of Virginia, one member appointed by the Virginia Municipal League, one member appointed by the Virginia Association of Counties, and three members appointed by the Director of the Department of Rail and Public Transportation, to advise the Department of Rail and Public Transportation in the development of the process set forth in

subdivision 2. The Transit Service Delivery Advisory Committee shall elect a chairman from among its membership. The Department of Rail and Public Transportation shall provide administrative support to the Transit Service Delivery Advisory Committee. The Transit Service Delivery Advisory Committee shall meet at least annually and consult with interested stakeholders and hold at least one public hearing and report its findings to the Director of the Department of Rail and Public Transportation.

2. The Department of Rail and Public Transportation, in conjunction with the Transit Service Delivery Advisory Committee, shall develop a process for the distribution of the funds allocated pursuant to subdivision C 1 of § 33.2-1526.1 and the incorporation by transit systems of the service delivery factors set forth therein into their transit development plans. Prior to the Board approving service delivery factors, the Director of the Department of Rail and Public Transportation and the Chairman of the Transit Service Delivery Advisory Committee shall brief the House Committees on Appropriations and Transportation and the Senate Committees on Finance and Transportation regarding the findings and recommendations of the Transit Service Delivery Advisory Committee and the Department of Rail and Public Transportation. Before redefining any component of the service delivery factors, the Board shall consult with the Director of the Department of Rail and Public Transportation, the Transit Service Delivery Advisory Committee, and interested stakeholders, and shall provide for a 45-day public comment period. The process required to be delivered by this subsection shall be adopted no later than July 1, 2019, and shall apply beginning with the fiscal year 2020-2025 Six-Year Improvement Program.

**§ 33.2-286. Urban transit agency strategic plans.**

A. The Department of Rail and Public Transportation shall develop guidelines, subject to the approval of the Board, for the development of strategic plans for transit agencies that (i) serve an urbanized area with a population of 50,000 or more and (ii) have a bus fleet consisting of at least 20 buses.

B. As a condition of receiving funds from the Commonwealth Mass Transit Fund, any transit agency that meets the criteria of subsection A shall develop, and update at least once every five years, a strategic plan using the guidelines approved by the Board.

C. The guidelines shall require the following:

1. An assessment of state of good repair needs;
2. A review of the performance of fixed-route bus service, including schedules, route design, connectivity, and vehicle sizes;
3. An evaluation of opportunities to improve operating efficiency of the transit network, including reliability of trips and travel speed;
4. An examination and identification of opportunities to share services where multiple transit providers' services overlap; and
5. An examination of opportunities to improve service in underserved areas.

D. In addition to developing and updating a strategic plan pursuant to this section, in all planning districts with transit systems collectively serving population areas of not less than 1.5 million nor more than 2 million, such transit systems shall develop a regional transit planning process coordinated by the federally designated Metropolitan Planning Organization. Such planning process shall include the identification and prioritization of projects, the establishment of performance benchmarks that incorporate state and federal requirements, the development and implementation of a regional subsidy allocation model, and the distribution of funds solely designated for transit and rail and that are administered by a regional body authorized by this Code to enter into agreements for the operation and maintenance of transit and rail facilities.

**§ 33.2-1526.1. Use of the Commonwealth Mass Transit Fund.**

A. All funds deposited pursuant to §§ 58.1-638, 58.1-638.3, 58.1-815.4, and 58.1-2289 into the Commonwealth Mass Transit Fund (the Fund), established pursuant to subdivision A 4 of § 58.1-638, shall be allocated as set forth in this section.

B. The Board may establish policies for the implementation of this section, including the determination of the state share of operating, capital, and administrative costs related to mass transit. For purposes of this section, capital costs may include debt service payments on local or agency transit bonds. Funds may be paid to any local governing body, transportation district commission, or public service corporation for the purposes as set forth in this section. No funds from the Fund shall be allocated without a local match from the recipient.

C. Each year the Director of the Department of Rail and Public Transportation shall make recommendations to the Board for the allocation of funds from the Fund. Such recommendations, and the final allocations approved by the Board, shall adhere to the following:

1. Thirty-one percent of the funds shall be allocated to support operating costs of transit providers and shall be distributed by the Board on the basis of service delivery factors, based on effectiveness and efficiency as established by the Board. Such measures and their relative weight shall be evaluated every

three years and, if redefined by the Board, shall be published and made available for public comment at least one year in advance of being applied. The Washington Metropolitan Area Transit Authority (WMATA) shall not be eligible for an allocation of funds pursuant to this subdivision.

2. Twelve and one-half percent of the funds shall be allocated for capital purposes and distributed utilizing the transit capital prioritization process established by the Board pursuant to § 33.2-214.3. The Washington Metropolitan Area Transit Authority shall not be eligible for an allocation of funds pursuant to this subdivision.

3. Fifty-three and one-half percent of the funds shall be allocated to the Northern Virginia Transportation Commission for distribution to WMATA for capital purposes and operating assistance, as determined by the Commission.

4. Three percent of the funds shall be allocated for special programs, including ridesharing, transportation demand management programs, experimental transit, public transportation promotion, operation studies, and technical assistance, and may be allocated to any local governing body, planning district commission, transportation district commission, or public transit corporation. Remaining funds may also be used directly by the Department of Rail and Public Transportation to (i) finance a program administered by the Department of Rail and Public Transportation designed to promote the use of public transportation and ridesharing throughout the Commonwealth or (ii) finance up to 80 percent of the cost of development and implementation of projects with a purpose of enhancing the provision and use of public transportation services.

D. The Board may consider the transfer of funds from subdivisions C 2 and 4 to subdivision C 1 in times of statewide economic distress or statewide special need.

E. The Department of Rail and Public Transportation may reserve a balance of up to five percent of the Fund revenues in order to ensure stability in providing operating and capital funding to transit entities from year to year, provided that such balance shall not exceed five percent of revenues in a given biennium.

F. The Board may allocate up to 3.5 percent of the funds set aside for the Fund to support costs of project development, project administration, and project compliance incurred by the Department of Rail and Public Transportation in implementing rail, public transportation, and congestion management grants and programs.

G. Funds allocated to the Northern Virginia Transportation Commission (NVTC) for WMATA pursuant to subdivision C 3 shall be credited to the Counties of Arlington and Fairfax and the Cities of Alexandria, Fairfax, and Falls Church. Beginning in the fiscal year when service starts on Phase II of the Silver Line, such funds shall also be credited to Loudoun County. Funds allocated pursuant to this subsection shall be credited as follows:

1. 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, which shall use 95 percent state aid for these payments.

2. 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. Local transit subsidies and local capital costs of Loudoun County shall not be included. Hold harmless protections and obligations for NVTC's jurisdictions agreed to by NVTC on November 5, 1998, shall remain in effect.

H. Appropriations from the Fund are intended to provide a stable and reliable source of revenue, as defined by P.L. 96-184.

I. Notwithstanding any other provision of law, funds allocated to WMATA may be disbursed by the Department of Rail and Public Transportation directly to WMATA or to any other transportation entity that has an agreement to provide funding to WMATA.

J. In any year that the total Virginia operating assistance in the approved WMATA budget increases by more than 3 percent from the total operating assistance in the prior year's approved WMATA budget, the Board shall withhold an amount equal to 35 percent of the funds available under subdivision C 3. The following items shall not be included in the calculation of any WMATA budget increase: (i) any service, equipment, or facility that is required by any applicable law, rule, or regulation; (ii) any capital project approved by the WMATA Board before or after the effective date of this provision; and (iii) any payments or obligations of any kind arising from or related to legal disputes or proceedings between or among WMATA and any other person or entity.

### **§ 33.2-1936. Transportation districts with unique needs.**

The General Assembly finds that transportation districts that (i) have a population of 1.7 million or more, as shown by the most recent United States Census, (ii) have not less than 1.5 million motor vehicles registered therein, and (iii) have a total transit ridership of not less than 75 million riders per year across all transit systems within the transportation district and in which a rapid heavy rail commuter mass transportation system operating on an exclusive right-of-way and a bus commuter mass

transportation system are owned, operated, or controlled by an agency or commission as defined in § 33.2-1901 have unique transportation needs.

**§ 33.2-2400. Northern Virginia Transportation District Fund.**

A. 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 Northern Virginia Transportation District Fund, referred to in this chapter as "the Fund," consisting of transfers pursuant to § 58.1-816 of annual collections of the state recordation taxes attributable to the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park and the Counties of Arlington, Fairfax, Loudoun, and Prince William; however, this dedication shall not affect the local recordation taxes under subsection B of § 58.1-802 and § 58.1-814. The Fund shall also include any public rights-of-way use fees appropriated by the General Assembly; any state or local revenues, including any funds distributed pursuant to § 33.2-366, that may be deposited into the Fund pursuant to a contract between a jurisdiction participating in the Northern Virginia Transportation District Program and the Commonwealth Transportation Board; and any other funds as may be appropriated by the General Assembly and designated for the Fund and all interest, dividends, and appreciation that may accrue thereto. Any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund, but shall remain in the Fund, subject to the determination by the Commonwealth Transportation Board that a Category 2, 3, or 4 project may be funded.

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

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

D. Beginning in fiscal year 2019, \$20 million each year shall be transferred from the Fund to the Washington Metropolitan Area Transit Authority Capital Fund established pursuant to § 33.2-3401.

**§ 33.2-2401. Northern Virginia Transportation District Program.**

A. The General Assembly declares it to be in the public interest that the economic development needs and economic growth potential of Northern Virginia be addressed by a special transportation program to provide for the costs of providing an adequate, modern, safe, and efficient transportation network in Northern Virginia that shall be known as the Northern Virginia Transportation District Program (the Program), including environmental and engineering studies, rights-of-way acquisition, construction, improvements to all modes of transportation, and financing costs. The Program consists of the projects listed in clause (i) of subsection B of § 33.2-2400.

B. Allocations to the Program from the Fund shall be made annually by the Commonwealth Transportation Board for the creation and enhancement of a safe and efficient transportation system connecting the communities, businesses, places of employment, and residences of the Commonwealth, thereby enhancing the economic development potential, employment opportunities, mobility, and quality of life in the Commonwealth.

C. Except in the event that the Fund is insufficient to pay for the costs of the Program, allocations to the Program shall not diminish or replace allocations made from other sources or diminish allocations to which any district, system, or locality would be entitled under other provisions of this title but shall be supplemental to other allocations to the end that transportation improvements in the Northern Virginia

Transportation District may be accelerated and augmented. Allocations under this subsection shall be limited to projects specified in subdivision 12 of § 33.2-1700.

D. The Commonwealth Transportation Board may expend such funds from all sources as may be lawfully available to initiate the Program and to support bonds and other obligations referenced in subsection E *and in subsection D of § 33.2-2400.*

E. The Commonwealth Transportation Board is authorized to receive, dedicate, or use (i) first from revenues received from the 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~~ *available for distribution after providing for subsection B of § 33.2-358*; (iii) to the extent required, legally available revenues of the Transportation Trust Fund; and (iv) such other funds that may be appropriated by the General Assembly for the payment of bonds or other obligations, including interest thereon, issued in furtherance of the Program. No such bond or other obligations shall pledge the full faith and credit of the Commonwealth.

**§ 33.2-2509. Northern Virginia Transportation Authority Fund.**

There is hereby created in the state treasury a special nonreverting fund for Planning District 8 to be known as the Northern Virginia Transportation Authority Fund, referred to in this chapter as "the Fund." The Fund shall be established on the books of the Comptroller. All revenues dedicated to the Fund pursuant to §§ 58.1-638, ~~58.1-802.2, and 58.1-1742~~, any other funds that may be appropriated by the General Assembly, and any funds that may be received for the credit of the Fund from any other source shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

The amounts dedicated to the Fund pursuant to §§ 58.1-638, ~~58.1-802.2, and 58.1-1742~~ shall be deposited monthly by the Comptroller into the Fund and thereafter distributed to the Authority as soon as practicable for use in accordance with § 33.2-2510. If the Authority determines that such moneys distributed to it exceed the amount required to meet the current needs and demands to fund transportation projects pursuant to § 33.2-2510, the Authority may invest such excess moneys to the same extent as provided in subsection A of § 33.2-1525 for excess funds in the Transportation Trust Fund.

The amounts deposited into the Fund and the distribution and expenditure of such amounts shall not be used to calculate or reduce the share of federal, state, or local revenues otherwise available to participating jurisdictions. Further, such revenues and moneys shall not be included in any computation of, or formula for, a locality's ability to pay for public education, upon which appropriations of state revenues to local governments for public education are determined.

**CHAPTER 31.01.**

**METRO REFORM COMMISSION.**

**§ 33.2-3100.1. Metro Reform Commission established; membership; duties.**

A. As used in this chapter, unless the context requires a different meaning:

"Commission" means the Metro Reform Commission.

"WMATA" means the Washington Metropolitan Area Transit Authority.

B. There is hereby created the Metro Reform Commission. The Commission shall consist of four members appointed as follows: two members appointed by the Speaker of the House of Delegates and two members appointed by the Senate Committee on Rules. Members of the Commission may or may not be members of the General Assembly. Members shall be citizens of the Commonwealth, but shall not be required to reside in the area served by WMATA. Members shall serve without compensation, but shall be entitled to be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties pursuant to §§ 2.2-2813 and 2.2-2825.

C. The Commission shall advise and make recommendations to the Signatories of the Washington Metropolitan Area Transit Authority Compact of 1966 on reforms to the National Capital Area Interest Arbitration Standards Act.

**CHAPTER 34.**

**WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY CAPITAL FUND.**

**§ 33.2-3400. Definitions.**

As used in this chapter:

"Fund" means the Washington Metropolitan Area Transit Authority Capital Fund.

"NVTC" means the Northern Virginia Transportation Commission.

"WMATA" means the Washington Metropolitan Area Transit Authority.

**§ 33.2-3401. Washington Metropolitan Area Transit Authority Capital Fund.**

A. There is hereby created in the state treasury a special nonreverting fund for the benefit of the Northern Virginia Transportation District to be known as the Washington Metropolitan Area Transit

Authority Capital Fund. The Fund shall be established on the books of the Comptroller. All revenues dedicated to the Fund pursuant to §§ 33.2-2400, 33.2-3404, 58.1-802.3, 58.1-1741, 58.1-1743, and 58.1-2299.20 shall be paid into the state treasury and credited to the Fund as set forth in subsection B and shall be used for the payment of capital purposes incurred, or to be incurred, by WMATA. Interest 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. The Comptroller shall disburse funds to WMATA on a monthly basis if NVTC has provided the certification required by subsection B of § 33.2-3402.

B. 1. Within the Fund, there shall be established a separate, segregated account into which revenues dedicated to the Fund pursuant to §§ 33.2-2400 and 58.1-1741 shall be deposited (the Restricted Account). Revenues deposited into the Restricted Account shall be available for use by WMATA for capital purposes other than for the payment of, or security for, debt service on bonds or other indebtedness of WMATA.

2. Within the Fund, there shall be established a separate, segregated account into which revenues dedicated to the Fund pursuant to §§ 33.2-3404, 58.1-802.3, 58.1-1743, and 58.1-2299.20 shall be deposited (the Non-Restricted Account). Revenues deposited into the Non-Restricted Account shall be available for use by WMATA for capital purposes, including for the payment of, or security for, debt service on bonds or other indebtedness of WMATA, or for any other WMATA capital purposes.

C. The amounts deposited into the Fund and the distribution and expenditure of such amounts shall not be used to calculate or reduce the share of federal, state, or local revenues otherwise available to participating jurisdictions. Further, such revenues and moneys shall not be included in any computation of, or formula for, a locality's ability to pay for public education, upon which appropriations of state revenues to local governments for public education are determined.

**§ 33.2-3402. NVTC oversight.**

A. In any year that funds are deposited into the Fund, the NVTC shall request certain documents and reports from WMATA to confirm the benefits of the WMATA system to persons living, traveling, commuting, and working in the localities that the NVTC comprises. Such documents and reports shall include:

1. WMATA's annual capital budget;
2. WMATA's annual independent financial audit;
3. WMATA's National Transit Data annual profile; and
4. Single audit reports issued in accordance with the Uniform Administrative Requirements, Cost Principals, and Audit Requirements for Federal Awards (2 C.F.R. Part 200).

B. NVTC shall be responsible for coordinating the delivery of such documents and reports with WMATA. Funding of the Commonwealth to support WMATA pursuant to § 33.2-1526.1 shall be contingent on WMATA providing the documents and reports described in subsection A, and NVTC shall provide annual certification to the Comptroller that such documents and reports have been received.

**§ 33.2-3403. NVTC report.**

By November 1 of each year that funds are deposited into the Fund, NVTC shall report to the Governor and the General Assembly on the performance and condition of WMATA. Such report shall contain, at a minimum, documentation of the following:

1. The safety and reliability of the rapid heavy rail mass transportation system and bus network;
2. The financial performance of WMATA related to the operations of the rapid heavy rail mass transportation system, including farebox recovery, service per rider, and cost per service hour;
3. The financial performance of WMATA related to the operations of the bus mass transportation system, including farebox recovery, service per rider, and cost per service hour;
4. Potential strategies to reduce the growth in such costs and to improve the efficiency of WMATA operations;
5. Use of the funds provided from the Fund to improve the safety and condition of the rapid heavy rail mass transportation system; and
6. Ridership of the rapid heavy rail mass transportation system and the bus mass transportation system.

**§ 33.2-3404. Local transportation support for WMATA.**

A. Each county or city that (i) is located in a transportation district that as of January 1, 2018, meets the criteria established in § 33.2-1936 and (ii) has financial obligations to a transit system that operates a rapid heavy rail mass transit system operating on an exclusive right-of-way that is funded and controlled in part by such transportation district shall annually pay to the Fund an amount as determined by subsection B.

B. The amount to be paid by each local government pursuant to subsection A shall be determined by multiplying \$27.12 million by a fraction the numerator of which shall be such local government's share of capital funding for WMATA and the denominator of which shall be the total share of capital funding

for WMATA for all local governments in the Commonwealth.

C. A locality subject to subsection A shall pay the amount determined by subsection B by transferring a portion of the revenues received pursuant to subsection B of § 33.2-2510 to the Fund. However, in any fiscal year in which a locality subject to subsection A has adopted a budget and a corresponding resolution to provide the amount of funds determined pursuant to subsection B from a source other than the revenues received pursuant to subsection B of § 33.2-2510, such locality may provide the funds for that fiscal year from such other source, and shall not be required to transfer funds received pursuant to subdivision B of § 33.2-2510.

#### CHAPTER 35.

#### COMMUTER RAIL OPERATING AND CAPITAL FUND.

##### § 33.2-3500. Commuter Rail Operating and Capital Fund.

A. The General Assembly declares it to be in the public interest that developing and continuing commuter rail operations and developing rail infrastructure, rolling stock, and support facilities to support commuter rail service are important elements of a balanced transportation system in the Commonwealth and further declares that retaining, maintaining, improving, and developing commuter rail-related infrastructure improvements and operations are essential to the Commonwealth's continued economic growth, vitality, and competitiveness in national and world markets.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Commuter Rail Operating and Capital Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller and shall consist of funds deposited into the Fund pursuant to § 58.1-2299.20 and other funds as may be set forth in a general appropriation act or allocated by the Commonwealth Transportation Board. Such funds shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. The Comptroller shall disburse funds in the Fund monthly to transportation districts established pursuant to Chapter 19 (§ 33.2-1900 et seq.) that on July 1, 2018, jointly operate a commuter rail system. The amount distributed to each transportation district shall be determined by multiplying the total amount of funds available for disbursement by a fraction, the numerator of which shall be such transportation district's share of funding for the commuter rail service jointly operated by the two transportation districts and the denominator of which shall be the total funding provided by both transportation districts for such commuter rail service.

C. If the transportation districts described in subsection B determine that such moneys distributed to the districts exceed the amount required to meet the current capital and operating needs of the commuter rail system, they may invest such excess moneys to the same extent as provided in subsection A of § 33.2-1525 for excess funds in the Transportation Trust Fund.

D. The amounts deposited into the Fund and the distribution and expenditure of such amounts shall not be used to calculate or reduce the share of federal, state, or local revenues otherwise available to participating jurisdictions. Further, such revenues and moneys shall not be included in any computation of, or formula for, a locality's ability to pay for public education, upon which appropriations of state revenues to local governments for public education are determined. Any amounts deposited pursuant to § 58.1-2299.20 shall be considered local funds when used to make a required match for state or federal transportation grant funds.

##### § 33.2-3501. Use of revenues in the Fund.

A. The transportation districts described in subsection B of § 33.2-3500 shall administer and expend, or commit, funds from the Fund to support the cost of operating commuter rail service; acquiring, leasing, or improving railways or railroad equipment, rolling stock, rights-of-way, or facilities; or assisting other appropriate entities to acquire, lease, or improve railways or railroad equipment, rolling stock, rights-of-way, or facilities for commuter rail transportation purposes whenever such transportation districts have determined that such acquisition, lease, or improvement is for the common good of a region of the Commonwealth or the Commonwealth as a whole. Funds provided in this section may also be used as matching funds for federal grants to support commuter rail projects.

B. Capital projects, including tracks and facilities constructed, and property, equipment, and rolling stock purchased, with funds from the Fund pursuant to this section shall be owned, leased, or otherwise subject to the continuing use of the transportation districts described in subsection B of § 33.2-3500 for the useful life of the projects and property, equipment, and rolling stock, as determined by such transportation districts, and shall be made available for use by all commuter rail operations and common carriers using the railway system to which they connect under the trackage rights or operating agreements between the parties. Such transportation districts may transfer ownership of any tracks or property to the Commonwealth. Projects undertaken pursuant to this section shall be limited to those providing benefits to a region of the Commonwealth, the Commonwealth as a whole, or an adjacent



jurisdiction served by commuter rail originating in the Commonwealth.

**§ 33.2-3502. Authority to issue bonds.**

The transportation districts described in subsection B of § 33.2-3500 may issue bonds and other evidences of debt as may be authorized by this section or other law. The provisions of Article 5 (§ 33.2-1920 *et seq.*) of Chapter 19 shall apply, *mutatis mutandis*, to the issuance of such bonds or other debt. The Authority may issue bonds or other debt in such amounts as it deems appropriate. The bonds may be supported by any funds available in the Fund, provided that the total amount of debt service for all outstanding bonds may not exceed 66 percent of the revenues dedicated to the Fund pursuant to § 58.1-2299.20.

**§ 58.1-638. Disposition of state sales and use tax revenue.**

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 § 33.2-1524. 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. Expenditures for such capital needs are restricted to those capital projects specified in subsection B of § 62.1-132.1.

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 a 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 § 33.2-1526 shall be allocated by the Commonwealth Transportation Board to the Board of Directors of the Virginia Commercial Space Flight Authority to be used to support the capital needs, maintenance, and operating costs of any and all facilities owned and operated by the Virginia Commercial Space Flight Authority.

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

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

a. The Commonwealth Mass Transit Fund shall be established on the books of the Comptroller and any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall be credited to the Fund. If funds in subdivision 4 b (1)(e) or 4 b (2)(d) are allocated to the construction of a new fixed rail project, such project shall be evaluated according to the process established pursuant to subsection B of § 33.2-214.1. Funds may be paid to any local governing body, transportation district commission, or public service corporation for the purposes hereinafter specified:

b. The amounts allocated pursuant to this section § 33.2-1526.1 shall be used to support the operating, capital, and administrative costs of public transportation at a state share determined by the Commonwealth Transportation Board, and these amounts may be used to support the capital project costs of public transportation and ridesharing equipment, facilities, and associated costs at a state share determined by the Commonwealth Transportation Board. Capital costs may include debt service payments on local or agency transit bonds. In making these determinations, the Commonwealth Transportation Board shall confer with the Director of the Department of Rail and Public Transportation. In development of the Director's recommendation and subsequent allocation of funds by the Commonwealth Transportation Board, the Director of the Department of Rail and Public Transportation and the Commonwealth Transportation Board shall adhere to the following:

(1) For the distribution of revenues from the Commonwealth Mass Transit Fund, of those revenues generated in 2014 and thereafter, the first \$160 million in revenues or the maximum available revenues if less than \$160 million shall be distributed by the Commonwealth Transportation Board as follows:

(a) Funds for special programs, which shall include ridesharing, transportation demand management programs, experimental transit, public transportation promotion, operation studies, and technical assistance, shall not exceed 3 percent of the funds pursuant to this section and may be allocated to any local governing body, planning district commission, transportation district commission, or public transit corporation, or may be used directly by the Department of Rail and Public Transportation for the following purposes and aid of public transportation services:

(i) To finance a program administered by the Department of Rail and Public Transportation designed to promote the use of public transportation and ridesharing throughout Virginia.

(ii) To finance up to 80 percent of the cost of the development and implementation of projects where the purpose of such project is to enhance the provision and use of public transportation services.

(b) At least 72 percent of the funds shall be distributed to each transit property in the same proportion as its operating expenses bear to the total statewide operating expenses and shall be spent for the purposes specified in subdivision 4 b.

(c) Twenty-five percent of the funds shall be allocated and distributed utilizing a tiered approach evaluated by the Transit Service Delivery Advisory Committee along with the Director of the Department of Rail and Public Transportation and established by the Commonwealth Transportation Board for capital purposes based on asset need and anticipated state participation level and revenues. The tier distribution measures may be evaluated by the Transit Service Delivery Advisory Committee along with the Director of the Department of Rail and Public Transportation every three years and, if redefined by the Board, shall be published at least one year in advance of being applied. Funds allocated for debt service payments will be included in the tier that applies to the capital asset that is leveraged.

(d) Transfer of funds from funding categories in subdivisions 4 b (1)(a) and 4 b (1)(c) to 4 b (1)(b) shall be considered by the Commonwealth Transportation Board in times of statewide economic distress or statewide special need.

(2) The Commonwealth Transportation Board shall allocate the remaining revenues after the application of the provisions set forth in subdivision 4 b (1) generated for the Commonwealth Mass

Transit Fund for 2014 and succeeding years as follows:

(a) Funds pursuant to this section shall be distributed among operating, capital, and special projects in order to respond to the needs of the transit community.

(b) Of the funds pursuant to this section, at least 72 percent shall be allocated to support operating costs of transit providers and distributed by the Commonwealth Transportation Board based on service delivery factors, based on effectiveness and efficiency, as established by the Commonwealth Transportation Board. These measures and their relative weight shall be evaluated every three years and, if redefined by the Commonwealth Transportation Board, shall be published and made available for public comment at least one year in advance of being applied. In developing the service delivery factors, the Commonwealth Transportation Board shall create for the Department of Rail and Public Transportation a Transit Service Delivery Advisory Committee, consisting of two members appointed by the Virginia Transit Association; one member appointed by the Community Transportation Association of Virginia; one member appointed by the Virginia Municipal League; one member appointed by the Virginia Association of Counties; and three members appointed by the Director of the Department of Rail and Public Transportation, to advise the Department of Rail and Public Transportation in the development of a distribution process for the funds allocated pursuant to this subdivision 4 b (2)(b) and how transit systems can incorporate these metrics in their transit development plans. The Transit Service Delivery Advisory Committee shall elect a Chair. The Department of Rail and Public Transportation shall provide administrative support to the committee. Effective July 1, 2013, the Transit Service Delivery Advisory Committee shall meet at least annually and consult with interested stakeholders and hold at least one public hearing and report its findings to the Director of the Department of Rail and Public Transportation. Prior to the Commonwealth Transportation Board approving the service delivery factors, the Director of the Department of Rail and Public Transportation along with the Chair of the Transit Service Delivery Advisory Committee shall brief the Senate Committee on Finance, the House Appropriations Committee, and the Senate and House Committees on Transportation on the findings of the Transit Service Delivery Advisory Committee and the Department's recommendation. Before redefining any component of the service delivery factors, the Commonwealth Transportation Board shall consult with the Director of the Department of Rail and Public Transportation, Transit Service Delivery Advisory Committee, and interested stakeholders and provide for a 45-day public comment period. Prior to approval of any amendment to the service delivery measures, the Board shall notify the aforementioned committees of the pending amendment to the service delivery factors and its content.

(c) Funds for special programs, which shall include ridesharing, transportation demand management programs, experimental transit, public transportation promotion, operation studies, and technical assistance, shall not exceed 3 percent of the funds pursuant to this section and may be allocated to any local governing body, planning district commission, transportation district commission, or public transit corporation, or may be used directly by the Department of Rail and Public Transportation for the following purposes and aid of public transportation services:

(i) To finance a program administered by the Department of Rail and Public Transportation designed to promote the use of public transportation and ridesharing throughout Virginia.

(ii) To finance up to 80 percent of the cost of the development and implementation of projects where the purpose of such project is to enhance the provision and use of public transportation services.

(d) Of the funds pursuant to this section, 25 percent shall be allocated and distributed utilizing a tiered approach evaluated by the Transit Service Delivery Advisory Committee along with the Director of Rail and Public Transportation and established by the Commonwealth Transportation Board for capital purposes based on asset need and anticipated state participation level and revenues. The tier distribution measures may be evaluated by the Transit Service Delivery Advisory Committee along with the Director of Rail and Public Transportation every three years and, if redefined by the Board, shall be published at least one year in advance of being applied. Funds allocated for debt service payments shall be included in the tier that applies to the capital asset that is leveraged.

(e) Transfer of funds from funding categories in subdivisions 4 b (2)(c) and 4 b (2)(d) to 4 b (2)(b) shall be considered by the Commonwealth Transportation Board in times of statewide economic distress or statewide special need.

(f) The Department of Rail and Public Transportation may reserve a balance of up to five percent of the Commonwealth Mass Transit Fund revenues under this subsection in order to assure better stability in providing operating and capital funding to transit entities from year to year.

(3) The Commonwealth Mass Transit Fund shall not be allocated without requiring a local match from the recipient.

c. There is hereby created in the Department of the Treasury a special nonreverting fund known as the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be established on the books of the Comptroller and consist of such moneys as are appropriated to it by the

General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given, bequeathed, granted, or otherwise made available to the Commonwealth Transit Capital Fund. Any funds remaining in the Commonwealth Transit Capital Fund at the end of the biennium shall not revert to the general fund, but shall remain in the Commonwealth Transit Capital Fund. Interest earned on funds within the Commonwealth Transit Capital Fund shall remain in and be credited to the Commonwealth Transit Capital Fund. Proceeds of the Commonwealth Transit Capital Fund may be paid to any political subdivision, another public entity created by an act of the General Assembly, or a private entity as defined in § 33.2-1800 and for purposes as enumerated in subdivision 7 of § 33.2-1701 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. If revenues of the Commonwealth Transit Capital Fund are allocated to the construction of a new fixed rail project, such project shall be evaluated according to the process established pursuant to subsection B of § 33.2-214.1. The Commonwealth Transit Capital Fund shall not be allocated without requiring a local match from the recipient.

d. The Commonwealth Transportation Board may allocate up to three and one-half percent of the funds set aside for the Commonwealth Mass Transit Fund to support costs of project development, project administration, and project compliance incurred by the Department of Rail and Public Transportation in implementing rail, public transportation, and congestion management grants and programs.

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.

6. Notwithstanding any other provision of law, funds allocated to Metro may be disbursed by the Department of Rail and Public Transportation directly to Metro or to any other transportation entity that has an agreement to provide funding to Metro.

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.

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

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

institutions of higher education within the school division in which the student's parents or guardians legally reside. To such estimate, the Department of Education shall add the population of students with disabilities, ages two through four and 20 through 21, as provided to the Department of Education by school divisions. The revenue so apportionable and distributable is hereby appropriated to the several counties and cities for maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the operation of the public schools, which shall be considered as funds raised from local resources. In any county, however, wherein is situated any incorporated town constituting a school division, the county treasurer shall pay into the town treasury for maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the operation of the public schools, the proper proportionate amount received by him in the ratio that the school population of such town bears to the school population of the entire county. If the school population of any city or of any town constituting a school division is increased by the annexation of territory since the last estimate of school population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school population of such city or town as shown by the last such estimate and a proper reduction made in the school population of the county or counties from which the annexed territory was acquired.

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

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

2. Beginning July 1, 2013, of the remaining sales and use tax revenue, an amount equal to the revenue generated by a 0.125 percent sales and use tax shall be distributed to the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund established under § 58.1-638.1, and be used for the state's share of Standards of Quality basic aid payments.

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

G. (Contingent expiration date) Beginning July 1, 2013, of the remaining sales and use tax revenue, an amount equal to the following percentages of the revenue generated by a one-half percent sales and use tax, such as that paid to the Transportation Trust Fund as provided in subdivision A 1, shall be paid to the Highway Maintenance and Operating Fund established pursuant to § 33.2-1530:

1. For fiscal year 2014, an amount equal to 10 percent;
2. For fiscal year 2015, an amount equal to 20 percent;
3. For fiscal year 2016, an amount equal to 30 percent; and
4. For fiscal year 2017 and thereafter, an amount equal to 35 percent.

The Highway Maintenance and Operating Fund's share of the net revenue distributable under this subsection 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.

H. (Contingent expiration date) 1. The additional revenue generated by increases in the state sales and use tax from Planning District 8 pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614 shall be deposited by the Comptroller in the fund established under § 33.2-2509.

2. The additional revenue generated by increases in the state sales and use tax from Planning District 23 pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614 shall be deposited by the Comptroller in the fund established under § 33.2-2600.

3. The additional revenue generated by increases in the state sales and use tax in any other Planning District pursuant to §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614 shall be deposited into special funds that shall be established by appropriate legislation.

4. The net revenues distributable under this subsection shall be computed as an estimate of the net revenue to be received by 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 appropriate funds on the last day of each month.

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

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

**§ 58.1-802.3. Regional transportation improvement fee.**

*In addition to any other tax or fee imposed under the provisions of this chapter, a fee, delineated as the "regional WMATA capital fee," is hereby imposed on each deed, instrument, or writing by which lands, tenements, or other realty located in any county or city that is a member of the Northern Virginia Transportation Authority is sold and is granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser or any other person, by such purchaser's direction. The rate of the fee, when the consideration or value of the interest, whichever is greater, equals or exceeds \$100, shall be \$0.15 for each \$100 or fraction thereof, exclusive of the value of any lien or encumbrance remaining thereon at the time of the sale, whether such lien is assumed or the realty is sold subject to such lien or encumbrance.*

*The fee imposed by this section shall be paid by the grantor, or any person who signs on behalf of the grantor, of any deed, instrument, or writing subject to the fee imposed by this section.*

*No such deed, instrument, or other writing shall be admitted to record unless certification of the clerk wherein first recorded has been affixed thereto that the fee imposed pursuant to this section has been paid.*

*Fees imposed by this section shall be collected by the clerk of the court. For fees collected in a county or city located in a transportation district established pursuant to Chapter 19 (§ 33.2-1900 et seq.) of Title 33.2 that as of January 1, 2018, meets the criteria established in § 33.2-1936 shall be transferred to the state treasury as soon as practicable and deposited into the fund established in § 33.2-3401. The fees collected in any other county or city in which the fee is imposed shall be retained by the county or city, and shall be used solely for transportation purposes.*

**§ 58.1-811. (Contingent expiration date) Exemptions.**

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

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

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

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

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

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

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

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

8. To the surviving or new corporation, partnership, limited partnership, business trust, or limited liability company upon a merger or consolidation to which two or more such entities are parties, or in a

reorganization within the meaning of § 368(a)(1)(C) and (F) of the Internal Revenue Code as amended;

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

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

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

12. To trustees of a revocable inter vivos trust, when the grantors in the deed and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust instrument, when no consideration has passed between the grantor and the beneficiaries; and to the original beneficiaries of a trust from the trustees holding title under a deed in trust;

13. When the grantor is the personal representative of a decedent's estate or trustee under a will or inter vivos trust of which the decedent was the settlor, other than a deed of trust conveying property to secure the payment of money or the performance of an obligation, and the sole purpose of such transfer is to comply with a devise or bequest in the decedent's will or to transfer title to one or more beneficiaries after the death of the settlor in accordance with a dispositive provision in the trust instrument;

14. When the grantor is an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise would be unable to afford to buy a home through conventional means;

15. When it is a deed of partition, or any combination of deeds simultaneously executed and having the effect of a deed of partition, among joint tenants, tenants in common, or coparceners; or

16. When it is a deed transferring property pursuant to a decree of divorce or of separate maintenance or pursuant to a written instrument incident to such divorce or separation.

B. The taxes imposed by §§ 58.1-803 and 58.1-804 shall not apply to any deed of trust or mortgage:

1. Given by an incorporated college or other incorporated institution of learning not conducted for profit;

2. Given by the trustee or trustees of a church or religious body or given by an incorporated church or religious body, or given by a corporation mentioned in § 57-16.1;

3. Given by any nonstock corporation organized exclusively for the purpose of owning and/or operating a hospital or hospitals not for pecuniary profit;

4. Given by any local governmental entity or political subdivision of the Commonwealth to secure a debt payable to any other local governmental entity or political subdivision;

5. Securing a loan made by an organization described in subdivision A 14;

6. Securing a loan made by a county, city, or town, or an agency of such a locality, to a borrower whose household income does not exceed 80 percent of the area median household income established by the U.S. Department of Housing and Urban Development, for the purpose of erecting or rehabilitating a home for such borrower, including the purchase of land for such home; or

7. Given by any entity organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56.

C. The tax imposed by § 58.1-802 and the fee imposed by § ~~58.1-802.2~~ 58.1-802.3 shall not apply to any:

1. Transaction described in subdivisions A 6 through 13, 15, and 16;

2. Instrument or writing given to secure a debt;

3. Deed conveying real estate from an incorporated college or other incorporated institution of learning not conducted for profit;

4. Deed conveying real estate from the United States, the Commonwealth or any county, city, town, district, or other political subdivision thereof;

5. Conveyance of real estate to the Commonwealth or any county, city, town, district, or other political subdivision thereof, if such political unit is required by law to reimburse the parties taxable pursuant to § 58.1-802 or subject to the fee under § ~~58.1-802.2~~ 58.1-802.3; or

6. Deed conveying real estate from the trustee or trustees of a church or religious body or from an incorporated church or religious body, or from a corporation mentioned in § 57-16.1.

D. No recordation tax shall be required for the recordation of any deed of gift between a grantor or grantors and a grantee or grantees when no consideration has passed between the parties. Such deed shall state therein that it is a deed of gift.

E. The tax imposed by § 58.1-807 shall not apply to any lease to the United States, the Commonwealth, or any county, city, town, district, or other political subdivision of the Commonwealth.

F. The taxes and fees imposed by §§ 58.1-801, 58.1-802, ~~58.1-802.2~~ 58.1-802.3, 58.1-807, 58.1-808, and 58.1-814 shall not apply to (i) any deed of gift conveying real estate or any interest therein to The Nature Conservancy or (ii) any lease of real property or any interest therein to The Nature Conservancy, where such deed of gift or lease of real estate is intended to be used exclusively for the purpose of preserving wilderness, natural, or open space areas.

G. The words "trustee" or "trustees," as used in subdivisions A 2, B 2, and C 6, include the trustees mentioned in § 57-8 and the ecclesiastical officers mentioned in § 57-16.

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

I. No recordation tax levied pursuant to this chapter shall be levied on a deed, lease, easement, release, or other document recorded in connection with a concession pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or similar federal law.

J. No recordation tax shall be required for the recordation of any transfer on death deed or any revocation of transfer on death deed made pursuant to the Uniform Real Property Transfer on Death Act (§ 64.2-621 et seq.) when no consideration has passed between the parties.

**§ 58.1-815.4. (Contingent expiration dates) Distribution of recordation tax for certain transportation-related purposes.**

Of the state recordation taxes imposed pursuant to §§ 58.1-801 and 58.1-803, the revenues collected each fiscal year from \$0.03 of the total tax imposed under each section shall be deposited by the Comptroller as follows:

1. The revenues collected from \$0.02 of the total tax shall be deposited into the Commonwealth Mass Transit Fund pursuant to subdivision A 4 b (1)(b) of § 58.1-638; and

2. The revenues collected from \$0.01 of the total tax shall be deposited into the Commonwealth Mass Transit Capital Fund established pursuant to subdivision A 4 e of § 58.1-638.

**§ 58.1-815.4. (Contingent effective date, and contingent expiration date) Distribution of recordation tax for certain transportation-related purposes.**

Effective July 1, 2008, of the state recordation taxes imposed pursuant to §§ 58.1-801 and 58.1-803, the revenues collected each fiscal year from \$0.03 of the total tax imposed under each section shall be deposited by the Comptroller as follows:

1. The revenues collected from \$0.02 of the total tax shall be deposited into the Commonwealth Mass Transit Fund pursuant to subdivision A 4 b (1)(b) of § 58.1-638; and

2. The revenues collected from \$0.01 of the total tax shall be deposited into the Highway Maintenance and Operating Fund established pursuant to § 33.2-1530.

**§ 58.1-1741. (Contingent expiration date) Disposition of revenues.**

A. After the direct costs of administering this article are recovered by the Department of Taxation, the remaining revenues collected hereunder by the Tax Commissioner shall be forthwith paid into the state treasury. Except as otherwise provided in this section, these funds shall constitute special funds within the Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for use in subsequent years for the purposes set forth in this article, and any interest income on such funds shall accrue to these funds. The revenue so derived, after refunds have been deducted, is hereby allocated for the construction, reconstruction, and maintenance of highways and the regulation of traffic thereon and for no other purpose. However, (i) all funds collected from the additional tax imposed by subdivision A 2 of § 58.1-1736 on the rental of daily rental vehicles shall be distributed quarterly to the county, city, or town wherein such vehicle was delivered to the renter; (ii) except as provided in clause (iii), an amount equivalent to the net additional revenues from the motor vehicle rental tax generated by enactments of the 1986 Special Session of the Virginia General Assembly which amended §§ 46.2-694, 46.2-697, and by §§ 58.1-1735, 58.1-1736 and this section, shall be distributed to and paid into the Transportation Trust Fund established pursuant to § 33.2-1524, a special fund within the Commonwealth Transportation Fund, and are hereby appropriated to the Commonwealth Transportation Board for transportation needs; (iii) all moneys collected from the tax on the gross proceeds from the rental in Virginia of any motor vehicle pursuant to subdivision A 1 of § 58.1-1736 at the tax rate in effect on December 31, 1986, shall be paid by the Tax Commissioner into the state treasury and two-thirds of which shall be paid into the Rail Enhancement Fund established by § 33.2-1601 and one-third of which shall be deposited into the ~~Transportation Trust Fund established pursuant to § 33.2-1524 and set aside for state of good repair purposes pursuant to § 33.2-369~~ Washington Metropolitan Area Transit Authority Capital Fund pursuant to § 33.2-3401; and (iv) all additional revenues resulting from the fee imposed under subdivision A 3 of § 58.1-1736 shall be used to pay the debt service on the bonds issued by the Virginia Public Building Authority for the Statewide



911 Agencies Radio System (STARS) for the Department of State Police pursuant to the authority granted  
 912 by the 2004 Session of the General Assembly.

913 B. As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation  
 914 Trust Fund pursuant to ~~clause (ii) of subsection~~ *subdivision A 2*, an aggregate of 4.2 percent shall be set  
 915 aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the  
 916 Commonwealth Airport Fund; and an aggregate of 14.7 percent shall be set aside as the Commonwealth  
 917 Mass Transit Fund.

#### 918 *Article 11.*

##### 919 *Transportation Transient Occupancy Taxes.*

#### 920 **§ 58.1-1743. Transportation district transient occupancy tax.**

921 *In addition to all other fees and taxes imposed under law, there is hereby imposed an additional*  
 922 *transient occupancy tax at the rate of two percent of the amount of the charge for the occupancy of any*  
 923 *room or space occupied in any county or city located in a transportation district established pursuant to*  
 924 *Chapter 19 (§ 33.2-1900 et seq.) of Title 33.2 that as of January 1, 2018, meets the criteria established*  
 925 *in § 33.2-1936.*

926 *The tax imposed under this section shall be imposed only for the occupancy of any room or space*  
 927 *that is suitable or intended for occupancy by transients for dwelling, lodging, or sleeping purposes.*

928 *The tax imposed under this section shall be administered by the locality in which the room or space*  
 929 *is located in the same manner as it administers the tax authorized by § 58.1-3819 or 58.1-3840, mutatis*  
 930 *mutandis, except as herein provided. The revenue generated and collected from the tax shall be*  
 931 *deposited by the local treasurer into the state treasury pursuant to § 2.2-806 and transferred by the*  
 932 *Comptroller into special funds established by law. In the case of the Northern Virginia Transportation*  
 933 *District, the revenue generated and collected therein shall be deposited into the fund established in*  
 934 *§ 33.2-3401. For additional transportation districts that may become subject to this section, funds shall*  
 935 *be established by appropriate legislation.*

#### 936 **§ 58.1-1744. Local transportation transient occupancy tax.**

937 *In addition to all other fees and taxes imposed under law, there is hereby imposed an additional*  
 938 *transient occupancy tax at the rate of two percent of the amount of the charge for the occupancy of any*  
 939 *room or space occupied in any county or city that is a member of the Northern Virginia Transportation*  
 940 *Authority that is not described in § 58.1-1743.*

941 *The tax imposed under this section shall be imposed only for the occupancy of any room or space*  
 942 *that is suitable or intended for occupancy by transients for dwelling, lodging, or sleeping purposes.*

943 *The tax imposed under this section shall be administered by the locality in which the room or space*  
 944 *is located in the same manner as it administers the tax authorized by § 58.1-3819 or 58.1-3840, mutatis*  
 945 *mutandis, except as herein provided. The revenue generated and collected from the tax shall be*  
 946 *deposited by the local treasurer and may be used only for public transportation purposes.*

#### 947 **§ 58.1-2289. (For contingent expiration, see note) Disposition of tax revenue generally.**

948 A. Unless otherwise provided in this section, all taxes and fees, including civil penalties, collected by  
 949 the Commissioner pursuant to this chapter, less a reasonable amount to be allocated for refunds, shall be  
 950 promptly paid into the state treasury and shall constitute special funds within the Commonwealth  
 951 Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for  
 952 use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds  
 953 shall accrue to these funds.

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

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

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

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

From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for the propelling of watercraft, after deduction for lawful refunds, there shall be paid into the state treasury for use by the Marine Resources Commission, the Virginia Soil and Water Conservation Board, the State Water Control Board, and the Commonwealth Transportation Board to (i) improve the public docks as specified in this section, (ii) improve commercial and sports fisheries in Virginia's tidal waters, (iii) make environmental improvements including, without limitation, fisheries management and habitat enhancement in the Chesapeake and its tributaries, and (iv) further the purposes set forth in § 33.2-1510, a sum as established by the General Assembly.

E. Of the remaining revenues deposited into the Commonwealth Transportation Fund pursuant to this chapter less refunds authorized by this chapter: (i) 80 percent shall be deposited into the Highway Maintenance and Operating Fund established pursuant to § 33.2-1530, (ii) 11.3 percent shall be deposited into the Transportation Trust Fund established pursuant to § 33.2-1524, (iii) four percent shall be deposited into the Priority Transportation Fund, (iv) ~~3.44~~ 3.7 percent shall be deposited into the Commonwealth ~~Mass Transit Capital~~ Fund established pursuant to subdivision A 4 e of § 58.1-638, and (v) one percent shall be transferred 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; ~~(vi) 0.35 of one percent shall be deposited into the Commonwealth Mass Transit Fund established pursuant to subdivision A 4 of § 58.1-638 and allocated to subdivision A 4 b (1)(b), and (vii) 0.24 of one percent shall be deposited into the Commonwealth Mass Transit Fund established pursuant to subdivision A 4 of § 58.1-638 and allocated to subdivision A 4 b (1)(a).~~

**§ 58.1-2299.20. (Contingent expiration date) Disposition of tax revenues.**

A. All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in *clause (i) of* subdivision A 1 of § 58.1-2295, after subtraction of the direct costs of administration by the Department, shall be deposited *each month as follows*:

1. *One-twelfth of an amount determined by multiplying \$15 million by a fraction, the numerator of which shall be such transportation district's share of funding for the commuter rail service jointly operated by the two transportation districts and the denominator of which shall be the total funding share for such commuter rail service, shall be deposited in the Commuter Rail Operating and Capital Fund established pursuant to § 33.2-3500;*

2. *a. Until June 30, 2019, an amount equal to the increase in taxes, interest, and civil penalties paid to the Commissioner each month, compared with the same month for fiscal year 2018, minus any amounts deposited pursuant to subdivision 1, shall be deposited into the Washington Metropolitan Area Transit Capital Fund established pursuant to § 33.2-3401; and*

*b. Beginning on July 1, 2019, an amount equal to one-twelfth of the increase in taxes, interest, and civil penalties paid to the Commissioner in fiscal year 2019 compared to fiscal year 2018, minus any amounts deposited pursuant to subdivision A 1, shall be deposited in the Washington Metropolitan Area Transit Authority Capital Fund established pursuant to § 33.2-3401; and*

3. *All remaining funds shall be deposited in a special fund entitled the "Special Fund Account of the Transportation District of \_\_\_\_\_." The amounts deposited in the special fund shall be distributed monthly to the applicable transportation district commission of which the county or city is a member to be applied to the operating deficit, capital, and debt service of the mass transit system of such district or, in the case of a transportation district subject to the provisions of subsection C of § 33.2-1915, to be applied to and expended for any transportation purpose of such district. In the case of a jurisdiction which, after July 1, 1989, joins a transportation district which was established on or before January 1, 1986, and is also subject to subsection C of § 33.2-1915, the funds collected from that jurisdiction shall be applied to and expended for any transportation purpose of such jurisdiction. The direct costs of administration shall be credited to the funds appropriated to the Department.*

B. *All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the*

sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in clause (ii) of subdivision A 1 of § 58.1-2295, after subtraction of the direct costs of administration by the Department, shall be deposited each month as follows:

1. One-twelfth of an amount determined by multiplying \$15 million by a fraction, the numerator of which shall be such transportation district's share of funding for the commuter rail service jointly operated by the two transportation districts and the denominator of which shall be the total funding share for such commuter rail service, shall be deposited in the Commuter Rail Operating and Capital Fund established pursuant to § 33.2-3500; and

2. All remaining funds shall be deposited in a special fund entitled the "Special Fund Account of the Transportation District of \_\_\_\_\_." The amounts deposited in the special fund shall be distributed monthly to the applicable transportation district commission of which the county or city is a member to be applied to the operating deficit, capital, and debt service of the mass transit system of such district or, in the case of a transportation district subject to the provisions of subsection C of § 33.2-1915, to be applied to and expended for any transportation purpose of such district. In the case of a jurisdiction which, after July 1, 1989, joins a transportation district that was established on or before January 1, 1986, and is also subject to subsection C of § 33.2-1915, the funds collected from that jurisdiction shall be applied to and expended for any transportation purpose of such jurisdiction.

C. All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in subdivision A 2 of § 58.1-2295, after subtraction of the direct costs of administration by the Department, shall be deposited into special funds established by law. In the case of Planning District 23, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2600. For additional Planning Districts that may become subject to this section, funds shall be established by appropriate legislation.

D. The direct cost of administration of this section shall be credited to the funds appropriated to the Department.

**§ 58.1-3221.3. Classification of certain commercial and industrial real property and taxation of such property by certain localities.**

A. Beginning January 1, 2008, and solely for the purposes of imposing the tax authorized pursuant to this section, in the counties and cities that are wholly embraced by the Northern Virginia Transportation Authority and the Hampton Roads metropolitan planning area as of January 1, 2008, pursuant to § 134 of Title 23 of the United States Code, all real property used for or zoned to permit commercial or industrial uses is hereby declared to be a separate class of real property for local taxation. Such classification of real property shall exclude all residential uses and all multifamily residential uses, including but not limited to single family residential units, cooperatives, condominiums, townhouses, apartments, or homes in a subdivision when leased on a unit by unit basis even though these units may be part of a larger building or parcel of real estate containing more than four residential units.

B. In addition to all other taxes and fees permitted by law, (i) the governing body of any locality embraced by the Northern Virginia Transportation Authority may, by ordinance, annually impose on all real property in the locality specially classified in subsection A: an amount of real property tax, in addition to such amount otherwise authorized by law, at a rate not to exceed \$0.125 per \$100 of assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit commercial or industrial uses; and (ii) the governing body of any locality wholly embraced by the Hampton Roads metropolitan planning area as of January 1, 2008, pursuant to § 134 of Title 23 of the United States Code may, by ordinance, annually impose on all real property in the locality specially classified in subsection A: an amount of real property tax, in addition to such amount otherwise authorized by law, at a rate not to exceed \$0.10 per \$100 of assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit commercial or industrial uses. The authority granted in this subsection shall be subject to the following conditions:

(1) Upon appropriation, all revenues generated from the additional real property tax imposed shall be used to benefit the locality imposing the tax solely for (i) new road construction and associated planning, design, and right-of-way acquisition, including new additions to, expansions, or extensions of existing roads that add new capacity, service, or access, (ii) new public transit construction and associated planning, design, and right-of-way acquisition, including new additions to, expansions, or extensions of existing public transit projects that add new capacity, service, or access, (iii) other capital costs related to new transportation projects that add new capacity, service, or access and the operating costs directly related to the foregoing, or (iv) the issuance costs and debt service on bonds that may be issued to support the capital costs permitted in subdivisions (i), (ii), or (iii), or (v) for a locality subject to § 33.2-3404, any other transportation purposes, provided that the amount used does not exceed the amount such locality is required to transfer pursuant to § 33.2-3404; and

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

C. Beginning January 1, 2008, in lieu of the authority set forth in subsections A and B above and solely for the purposes of imposing the tax authorized pursuant to this section, in the counties and cities wholly embraced by the Northern Virginia Transportation Authority and the Hampton Roads metropolitan planning area as of January 1, 2008, pursuant to § 134 of Title 23 of the United States Code, all real property used for or zoned to permit commercial or industrial uses is hereby declared to be a separate class of real property for local taxation. Such classification of real property shall exclude all residential uses and all multifamily residential uses, including but not limited to single family residential units, cooperatives, condominiums, townhouses, apartments, or homes in a subdivision when leased on a unit by unit basis even though these units may be part of a larger building or parcel of real estate containing more than four residential units.

D. In addition to all other taxes and fees permitted by law, (i) the governing body of any locality embraced by the Northern Virginia Transportation Authority may, by ordinance, create within its boundaries, one or more special regional transportation tax districts and, thereafter, may, by ordinance, impose upon the real property located in special regional transportation tax districts specially classified in subsection C within such special regional transportation tax districts: an amount of real property tax, in addition to such amounts otherwise authorized by law, at a rate not to exceed \$0.125 per \$100 of assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit commercial or industrial uses; and, (ii) the governing body of any locality wholly embraced by the Hampton Roads metropolitan planning area as of January 1, 2008, pursuant to § 134 of Title 23 of the United States Code may, by ordinance, create within its boundaries, one or more special regional transportation tax districts and, thereafter, may, by ordinance, impose upon the real property specially classified in subsection C within such special regional transportation tax districts: an amount of real property tax, in addition to such amounts otherwise authorized by law, at a rate not to exceed \$0.10 per \$100 of assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit commercial or industrial uses. The authority granted in this subsection shall be subject to the following conditions:

(1) Notwithstanding any other provisions of law to the contrary, upon appropriation, all revenues generated from the additional real property taxes imposed in accordance with subsection C and this subsection shall be used for transportation purposes that benefit the special regional transportation tax district to which such revenue is attributable and solely for (i) new road construction and associated planning, design, and right-of-way acquisition, including new additions to, expansions, or extensions of existing roads that add new capacity, service, or access, (ii) new public transit construction and associated planning, design, and right-of-way acquisition, including new additions to, expansions, or extensions of existing public transit projects that add new capacity, service, or access, (iii) other capital costs related to new transportation projects that add new capacity, service, or access and the operating costs directly related to the foregoing, or (iv) the issuance costs and debt service on bonds that may be issued to support the capital costs permitted in subdivisions (i), (ii), or (iii), *or (v) for a locality subject to § 33.2-3404, any other transportation purposes, provided that the amount used does not exceed the amount such locality is required to transfer pursuant to § 33.2-3404;*

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

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

(4) The total revenues generated from the additional real property taxes imposed in accordance with subsection C and this subsection shall not be less than 85% of the revenues estimated to be generated when imposing the additional real property taxes in accordance with subsections A and B at the rate of \$0.125 per \$100 of assessed value in any locality embraced by the Northern Virginia Transportation Authority and at the rate of \$0.10 per \$100 of assessed value in any locality wholly embraced by the Hampton Roads metropolitan planning area as of January 1, 2008, pursuant to § 134 of Title 23 of the

1155 United States Code; and

1156 (5) The additional real property taxes imposed pursuant to subsection C and this subsection shall be  
 1157 levied, administered, enforced, and collected, in the same manner as set forth in Subtitle III of Title 58.1  
 1158 for the levy, administration, enforcement, and collection of all local taxes. In addition, the local assessor  
 1159 shall separately assess and set forth upon the locality's land book the fair market value of that portion of  
 1160 property that is defined as separate class of real property for local taxation in accordance with the  
 1161 provisions of this section.

1162 **2. That § 3 of the second enactment of Chapter 896 of the Acts of Assembly of 2007, as amended**  
 1163 **by Chapter 830 of the Acts of Assembly of 2011, is amended and reenacted as follows:**

1164 § 3. The net proceeds of the Bonds *authorized by § 2* shall be used exclusively for the purpose of  
 1165 providing funds for paying the costs incurred or to be incurred for construction or funding of  
 1166 transportation projects pursuant to § ~~33.1-23.4-01~~ 33.2-365 of the Code of Virginia, including but not  
 1167 limited to environmental and engineering studies, rights-of-way acquisition, improvements to all modes  
 1168 of transportation, acquisition, construction and related improvements, and any financing costs and other  
 1169 financing expenses. Such costs may include the payment of interest on the Bonds for a period during  
 1170 construction and not exceeding one year after completion of construction of the projects.

1171 **3. That the second enactment of Chapter 896 of the Acts of Assembly of 2007, as amended by**  
 1172 **Chapter 830 of the Acts of Assembly of 2011, is amended by adding sections numbered 3.1 and 3.2**  
 1173 **as follows:**

1174 § 3.1. *The Commonwealth Transportation Board is hereby further authorized, by and with the*  
 1175 *consent of the Governor, to issue, pursuant to the provisions of the Transportation Development and*  
 1176 *Revenue Bond Act (§ 33.2-1700 et seq. of the Code of Virginia), as amended from time to time, revenue*  
 1177 *obligations of the Commonwealth to be designated "Commonwealth of Virginia Transportation Capital*  
 1178 *Projects Revenue Bonds, Series .." at one time in an aggregate principal amount not to exceed an*  
 1179 *additional \$50 million for a total authorization of \$3.05 billion, plus costs. The issuance of any bonds*  
 1180 *under this act is subject to the provisions of subsection C of § 33.2-1527 of the Code of Virginia.*

1181 § 3.2. *The net proceeds of the additional bonds authorized in § 3.1 of this enactment shall be used*  
 1182 *exclusively for the Commonwealth of Virginia to match federal funds provided for capital projects by the*  
 1183 *Washington Metropolitan Area Transit Authority.*

1184 **4. That § 58.1-802.2 and Article 10 (§ 58.1-1742) of Chapter 17 of Title 58.1 of the Code of**  
 1185 **Virginia are repealed.**

1186 **5. That each county or city that is a member of the Potomac Rappahannock Transportation**  
 1187 **Commission, but not a member of the Northern Virginia Transportation Authority, as of January**  
 1188 **1, 2018, shall expend or disburse for the support of public transportation an amount that is at**  
 1189 **least equal to the average annual amount expended or disbursed for such purposes by the county**  
 1190 **or city, excluding bond proceeds or debt service payments and federal or state grants, between**  
 1191 **July 1, 2015, and June 30, 2018.**

1192 **6. That the provisions of this act, except for §§ 33.2-214.3, 33.2-286, and 33.2-1526.1 of the Code of**  
 1193 **Virginia, as created by this act, and § 58.1-638 of the Code of Virginia, as amended by this act,**  
 1194 **shall not become effective until 30 days after the District of Columbia and the State of Maryland**  
 1195 **each enact legislation or take actions to provide dedicated funding for the Washington**  
 1196 **Metropolitan Area Transit Authority (WMATA). The percentage of funding provided by the**  
 1197 **Commonwealth for its share of WMATA funding pursuant to this act beginning with the fiscal**  
 1198 **year that this act becomes effective, and each fiscal year thereafter, shall be proportional to the**  
 1199 **amount of funding provided by the District of Columbia and Maryland relative to their respective**  
 1200 **share of WMATA funding in that fiscal year.**

1201 **7. That the Commonwealth Transportation Board shall withhold 20 percent of the funds available**  
 1202 **pursuant to subdivision C 3 of § 33.2-1526.1 of the Code of Virginia, as created by this act, if (i)**  
 1203 **any alternate directors participate or take action at an official Washington Metropolitan Area**  
 1204 **Transit Authority (WMATA) Board meeting or committee meeting as Board directors for a**  
 1205 **WMATA compact member when both directors appointed by that same WMATA compact**  
 1206 **member are present at the WMATA Board meeting or committee meeting or (ii) the WMATA**  
 1207 **Board of Directors has not adopted bylaws that would prohibit such participation by alternate**  
 1208 **directors.**

1209 **8. That, beginning July 1, 2019, the Commonwealth Transportation Board (the Board) shall**  
 1210 **withhold 20 percent of the funds available pursuant to subdivision C 3 of § 33.2-1526.1 of the**  
 1211 **Code of Virginia, as created by this act, each year unless (i) the Washington Metropolitan Area**  
 1212 **Transit Authority (WMATA) has adopted a detailed capital improvement program covering the**  
 1213 **current fiscal year and, at a minimum, the next five fiscal years, and at least one public hearing**  
 1214 **on such capital improvement program has been held in a locality embraced by the Northern**  
 1215 **Virginia Transportation Commission, and (ii) WMATA has adopted or updated a strategic plan**

within the preceding 36 months, and at least one public hearing on such plan or updated plan has been held in a locality embraced by the Northern Virginia Transportation Commission. In order to satisfy the requirements of clause (ii) of this enactment, the first strategic plan adopted to comply with such requirements shall include a plan to align services with demand and to satisfy the other recommendations included in the report submitted pursuant to Item 436 R of Chapter 836 of the Acts of Assembly of 2017.

9. That the Department of Rail and Public Transportation shall develop a prioritization process as required by § 33.2-214.3 of the Code of Virginia, as created by this act, for the Commonwealth Transportation Board's consideration. The Board shall implement the prioritization process required by § 33.2-214.3 of the Code of Virginia, as created by this act, no later than July 1, 2019, and use such process for the development of the Six-Year Improvement Program for fiscal years 2020 through 2025.

10. That the Commonwealth Transportation Board shall (i) adopt the guidelines required by § 33.2-286 of the Code of Virginia, as created by this act, by December 1, 2018, and (ii) develop and adopt a plan for phased implementation of the requirements for submissions of the strategic plans required to be developed over a period of five years. No agency subject to § 33.2-286 of the Code of Virginia, as created by this act, shall be penalized for not submitting a strategic plan pursuant to such section, provided that the agency is in compliance with the phased implementation schedule adopted by the Commonwealth Transportation Board.

11. That notwithstanding the provisions of subdivision C 1 of § 33.2-1526.1 of the Code of Virginia, as created by this act, for fiscal year 2019 the funds allocated to support the operating costs of transit shall be distributed as follows: (i) the first \$54 million of such funds shall be distributed to each transit property in the same proportion as its operating expenses bear to the total statewide operating expenses and shall be spent for purposes deemed to be eligible by the Board and (ii) the remaining amount of such funds shall be allocated to support operating costs of transit providers and shall be distributed by the Board on the basis of service delivery factors, based on effectiveness and efficiency, as established by the Board.

12. That (i) the Washington Metropolitan Area Transit Authority (WMATA) was established pursuant to an interstate compact between Virginia, Maryland, and the District of Columbia to operate a regional mass transit system in the Washington, D.C., metropolitan area; (ii) WMATA is currently the second largest rapid heavy rail mass transportation system and the sixth largest bus mass transportation system in the United States; (iii) Section 16 of the WMATA compact embodies the funding principle that "the payment of the costs shall be borne by the persons using or benefiting from the Authority's facilities and services and any remaining costs shall be equitably shared among the federal, District of Columbia and participating local governments"; (iv) the operation of the rapid heavy rail mass transportation system and the bus mass transportation system by WMATA provides particular and substantial benefit to the persons living, traveling, commuting, and working in those localities embraced by the Northern Virginia Transportation Commission; (v) the benefits to such persons include not only access to the rapid heavy rail mass transportation system and the bus mass transportation system operated by WMATA but also the lessened congestion on roadways and highways as a result of such operations; and (vi) on a typical weekday more than 340,000 trips are taken on WMATA in Virginia. On the basis of these facts, the General Assembly finds that dedicated funding is appropriate and necessary to support the capital needs of WMATA's rapid heavy rail mass transportation system.

13. That Virginia shall seek to appoint members to the Washington Metropolitan Area Transit Authority (WMATA) Board of Directors (i) with experience in transit, transportation, or land use planning; transit, transportation, or other public-sector management; engineering; finance; public safety; homeland security; human resources; or the law and (ii) who are familiar with the WMATA system.

14. That, for projects initiated by the Washington Metropolitan Area Transit Authority on and after July 1, 2018, and located solely within the Commonwealth, bidders, offers, contractors, or subcontractors (i) shall not, as a condition of the contract, be required to enter into or adhere to or prohibited from entering into or adhering to agreements with one or more labor organizations and (ii) shall not otherwise be discriminated against for becoming or refusing to become or remain signatories or otherwise adhere to agreements with one or more labor organizations.

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

16. That should any provision of this act changing the allocation of existing revenues in the Code of Virginia be declared invalid by a court of competent jurisdiction, the amendments to the relevant section of the Code of Virginia made by this act shall expire, and such section shall revert to the language in the Code of Virginia in effect on January 1, 2018.

1277 17. That nothing in this act shall be construed to appropriate or transfer any transportation  
1278 revenues for nontransportation purposes pursuant to the twenty-second enactment of Chapter 896  
1279 of the Acts of Assembly of 2007 or the fourteenth enactment of Chapter 766 of the Acts of  
1280 Assembly of 2013.

1281 18. That the twelfth enactment of Chapter 684 of the Acts of Assembly of 2015 is amended and  
1282 reenacted as follows:

1283 12. That the provisions of this act amending §§ 33.2-1530, 58.1-815.4, ~~58.1-1741~~, and 58.1-2289  
1284 of the Code of Virginia shall expire if the Commonwealth collects sales and use tax from  
1285 remote sellers on sales made into the Commonwealth pursuant to legislation enacted by the  
1286 federal government that grants states that meet minimum simplification requirements specified  
1287 in such legislation the authority to compel remote retailers to collect sales and use tax on sales  
1288 made into the respective state.