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SENATE BILL NO. 856

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 8, 2018)

(Patrons Prior to Substitute—Senators Saslaw and Barker [SB 393])

A BILL to amend and reenact §§ 33.2-2400, 33.2-2401, 33.2-2509, 58.1-638, 58.1-815.4, as it is currently effective, 58.1-1741, as it is currently effective, 58.1-2289, as it is currently effective, 58.1-2292, 58.1-2295, as it is currently effective, 58.1-2299, 58.1-2299.10, 58.1-2299.14, 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 the Code of Virginia by adding sections numbered 33.2-214.3 and 33.2-1526.1, by adding in Chapter 19 of Title 33.2 a section numbered 33.2-1936, by adding in Title 33.2 a chapter numbered 34, consisting of sections numbered 33.2-3400 through 33.2-3404, and 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 Article 10 (§ 58.1-1742) of Chapter 17 of Title 58.1 of the Code of Virginia, relating to mass transit in the Commonwealth.

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.2-2400, 33.2-2401, 33.2-2509, 58.1-638, 58.1-815.4, as it is currently effective, 58.1-1741, as it is currently effective, 58.1-2289, as it is currently effective, 58.1-2292, 58.1-2295, as it is currently effective, 58.1-2299, 58.1-2299.10, 58.1-2299.14, 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 sections numbered 33.2-214.3 and 33.2-1526.1, by adding in Chapter 19 of Title 33.2 a section numbered 33.2-1936, by adding in Title 33.2 a chapter numbered 34, consisting of sections numbered 33.2-3400 through 33.2-3404, and 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; capital purposes.

A. 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.

B. 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 a distribution process for the funds allocated pursuant to subdivisions C 1 and 2 of § 33.2-1526.1 and how transit systems can incorporate these metrics in their transit development plans. 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. 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 provide for a 45-day public comment period.

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

A. All funds deposited pursuant to §§ 58.1-638, 58.1-638.3, and 58.1-2289 into the Commonwealth

60 Mass Transit Fund (the Fund), established pursuant to subdivision A 4 of § 58.1-638, shall be allocated
61 as set forth in this section.

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

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

71 1. At least twenty-eight and nine-tenths percent of the funds shall be allocated to support operating
72 costs of transit providers and shall be distributed by the Board as follows: (i) the first \$54 million of
73 such funds shall be distributed to each transit property in the same proportion as its operating expenses
74 bear to the total statewide operating expenses and shall be spent for purposes deemed to be eligible by
75 the Board and (ii) the remaining amount of such funds shall be allocated to support operating costs of
76 transit providers and shall be distributed by the Board on the basis of service delivery factors, based on
77 effectiveness and efficiency, as established by the Board. Such measures and their relative weight shall
78 be evaluated every three years and, if redefined by the Board, shall be published and made available for
79 public comment at least one year in advance of being applied. The Washington Metropolitan Area
80 Transit Authority (WMATA) shall not be eligible for an allocation of funds pursuant to this subdivision.

81 2. Eighteen and four-tenths percent of the funds shall be allocated for capital purposes and
82 distributed utilizing the transit capital prioritization process established by the Board pursuant to
83 § 33.2-214.3. The Washington Metropolitan Area Transit Authority shall not be eligible for an allocation
84 of funds pursuant to this subdivision.

85 3. Forty-nine and nine-tenths percent of the funds shall be allocated to the Northern Virginia
86 Transportation Commission for distribution to WMATA for capital purposes and operating assistance, as
87 determined by the Commission.

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

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

99 E. The Department of Rail and Public Transportation may reserve a balance of up to five percent of
100 the Fund revenues in order to ensure stability in providing operating and capital funding to transit
101 entities from year to year.

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

106 G. Funds allocated to the Northern Virginia Transportation Commission (NVTC) for WMATA
107 pursuant to subdivision C 3 shall be credited to the Counties of Arlington, Fairfax, and, upon occurring
108 obligations, Loudoun and the Cities of Alexandria, Fairfax, and Falls Church. Funds allocated pursuant
109 to this subsection shall be credited as follows:

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

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

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

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

J. In any year that the total operating assistance in the approved WMATA budget increases by more than three percent from the total operating assistance in the prior year's approved WMATA budget, the Board may withhold an amount equal to 20 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; 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 mass transportation system operating on an exclusive right-of-way and a bus mass transportation system are owned, operated, and controlled by such transportation district, 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

183 Program (the Program), including environmental and engineering studies, rights-of-way acquisition,
184 construction, improvements to all modes of transportation, and financing costs. The Program consists of
185 the projects listed in clause (i) of subsection B of § 33.2-2400.

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

191 C. Except in the event that the Fund is insufficient to pay for the costs of the Program, allocations to
192 the Program shall not diminish or replace allocations made from other sources or diminish allocations to
193 which any district, system, or locality would be entitled under other provisions of this title but shall be
194 supplemental to other allocations to the end that transportation improvements in the Northern Virginia
195 Transportation District may be accelerated and augmented. Allocations under this subsection shall be
196 limited to projects specified in subdivision 12 of § 33.2-1700.

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

200 E. The Commonwealth Transportation Board is authorized to receive, dedicate, or use (i) first from
201 revenues received from the Fund; (ii) to the extent required, funds ~~appropriated and allocated, pursuant~~
202 ~~to the highway allocation formula as provided by law, to the highway construction district in which the~~
203 ~~project or projects to be financed are located or to the city or county in which the project or projects to~~
204 ~~be financed are located available for distribution after providing for subsection B of § 33.2-358;~~ (iii) to
205 the extent required, legally available revenues of the Transportation Trust Fund; and (iv) such other
206 funds that may be appropriated by the General Assembly for the payment of bonds or other obligations,
207 including interest thereon, issued in furtherance of the Program. No such bond or other obligations shall
208 pledge the full faith and credit of the Commonwealth.

209 **§ 33.2-2509. Northern Virginia Transportation Authority Fund.**

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

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

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

231 **CHAPTER 34.**

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

233 **§ 33.2-3400. Definitions.**

234 *As used in this chapter:*

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

236 *"NVTc" means the Northern Virginia Transportation Commission.*

237 *"WMATA" means the Washington Metropolitan Area Transit Authority.*

238 **§ 33.2-3401. Washington Metropolitan Area Transit Authority Capital Fund.**

239 A. There is hereby created in the state treasury a special nonreverting fund for the benefit of the
240 Northern Virginia Transportation District to be known as the Washington Metropolitan Area Transit
241 Authority Capital Fund. The Fund shall be established on the books of the Comptroller. All revenues
242 dedicated to the Fund pursuant to §§ 33.2-2400, 33.2-3404, 58.1-802.3, 58.1-1741, 58.1-1743, and
243 58.1-2290.20 shall be paid into the state treasury and credited to the Fund as set forth in subsection B
244 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 58.1-2290.20 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 or, or security for, the payment of 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. As a condition of receiving funds from the Fund, WMATA shall provide 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 this 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 locality that (i) is a member of a planning district that meets the criteria in § 58.1-802.2, (ii) is a member of the transportation district that meets the criteria in § 33.2-1936, and (iii) has financial obligations to a transit system that operates a rapid heavy rail mass transit system operating on an exclusive right-of-way and a bus mass transportation system that is owned, operated, or controlled by an agency or commission as defined in § 33.2-1901 shall annually transfer a portion of the revenues received pursuant to subsection B of § 33.2-2510 to the Fund.

B. The transfer by each local government pursuant to subsection A shall be determined by multiplying \$31 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.

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 a transportation entity that, on July 1, 2018, (i) is operated jointly by two transportation districts in the Commonwealth and (ii) operates a commuter rail system.

C. If the transportation entity described in subsection B determines that such moneys distributed to it exceed the amount required to meet the current capital and operating needs of such entity, it 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.

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

A. The transportation entity 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 entity has 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 the property of the transportation entity described in subsection B of § 33.2-3500 for the useful life of the project, as determined by the Director of the Department of Rail and Public Transportation, 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 entity 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 entity 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 33 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 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

429 shall remain in the Fund. Interest earned on such funds shall be credited to the Fund. If funds in
430 subdivision 4 b (1)(c) or 4 b (2)(d) are allocated to the construction of a new fixed rail project, such
431 project shall be evaluated according to the process established pursuant to subsection B of § 33.2-214.1.
432 Funds may be paid to any local governing body, transportation district commission, or public service
433 corporation for the purposes hereinafter specified.

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

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

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

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

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

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

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

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

471 (2) The Commonwealth Transportation Board shall allocate the remaining revenues after the
472 application of the provisions set forth in subdivision 4 b (1) generated for the Commonwealth Mass
473 Transit Fund for 2014 and succeeding years as follows:

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

476 (b) Of the funds pursuant to this section, at least 72 percent shall be allocated to support operating
477 costs of transit providers and distributed by the Commonwealth Transportation Board based on service
478 delivery factors, based on effectiveness and efficiency, as established by the Commonwealth
479 Transportation Board. These measures and their relative weight shall be evaluated every three years and,
480 if redefined by the Commonwealth Transportation Board, shall be published and made available for
481 public comment at least one year in advance of being applied. In developing the service delivery factors,
482 the Commonwealth Transportation Board shall create for the Department of Rail and Public
483 Transportation a Transit Service Delivery Advisory Committee, consisting of two members appointed by
484 the Virginia Transit Association, one member appointed by the Community Transportation Association
485 of Virginia, one member appointed by the Virginia Municipal League, one member appointed by the
486 Virginia Association of Counties, and three members appointed by the Director of the Department of
487 Rail and Public Transportation, to advise the Department of Rail and Public Transportation in the
488 development of a distribution process for the funds allocated pursuant to this subdivision 4 b (2)(b) and
489 how transit systems can incorporate these metrics in their transit development plans. The Transit Service
490 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,

552 project administration, and project compliance incurred by the Department of Rail and Public
553 Transportation in implementing rail, public transportation, and congestion management grants and
554 programs.

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

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

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

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

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

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

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

579 D. The net revenue so distributable among the counties and cities shall be apportioned and
580 distributed upon the basis of the latest yearly estimate of the population of cities and counties ages five
581 to 19, provided by the Weldon Cooper Center for Public Service of the University of Virginia. Such
582 population estimate produced by the Weldon Cooper Center for Public Service of the University of
583 Virginia shall account for persons who are domiciled in orphanages or charitable institutions or who are
584 dependents living on any federal military or naval reservation or other federal property within the school
585 division in which the institutions or federal military or naval reservation or other federal property is
586 located. Such population estimate produced by the Weldon Cooper Center for Public Service of the
587 University of Virginia shall account for members of the military services who are under 20 years of age
588 within the school division in which the parents or guardians of such persons legally reside. Such
589 population estimate produced by the Weldon Cooper Center for Public Service of the University of
590 Virginia shall account for individuals receiving services in state hospitals, state training centers, or
591 mental health facilities, persons who are confined in state or federal correctional institutions, or persons
592 who attend the Virginia School for the Deaf and the Blind within the school division in which the
593 parents or guardians of such persons legally reside. Such population estimate produced by the Weldon
594 Cooper Center for Public Service of the University of Virginia shall account for persons who attend
595 institutions of higher education within the school division in which the student's parents or guardians
596 legally reside. To such estimate, the Department of Education shall add the population of students with
597 disabilities, ages two through four and 20 through 21, as provided to the Department of Education by
598 school divisions. The revenue so apportionable and distributable is hereby appropriated to the several
599 counties and cities for maintenance, operation, capital outlays, debt and interest payments, or other
600 expenses incurred in the operation of the public schools, which shall be considered as funds raised from
601 local resources. In any county, however, wherein is situated any incorporated town constituting a school
602 division, the county treasurer shall pay into the town treasury for maintenance, operation, capital outlays,
603 debt and interest payments, or other expenses incurred in the operation of the public schools, the proper
604 proportionate amount received by him in the ratio that the school population of such town bears to the
605 school population of the entire county. If the school population of any city or of any town constituting a
606 school division is increased by the annexation of territory since the last estimate of school population
607 provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this
608 section, be added to the school population of such city or town as shown by the last such estimate and a
609 proper reduction made in the school population of the county or counties from which the annexed
610 territory was acquired.

611 E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a
612 two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of
613 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 WMATA capital 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 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 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 fee shall be imposed in a transportation district established pursuant to Chapter 19 (§ 33.2-1900 et seq.) of Title 33.2 that meets the criteria established in § 33.2-1936. The rate of the fee, when the consideration or value of the interest, whichever is greater, equals or exceeds \$100, shall be \$0.10 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 and deposited into the state treasury as soon as practicable. Such fees shall then be deposited into special funds established by law. In the case of the Northern Virginia Transportation District, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-3401. For additional transportation districts that may become subject to this section, funds shall be established by appropriate legislation.

§ 58.1-815.4. (Contingent expiration date) 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.

§ 58.1-1741. (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 rentee; (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 Agencies Radio System (STARS) for the Department of State Police pursuant to the authority granted by the 2004 Session of the General Assembly.

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

*Transportation Transient Occupancy Taxes.***§ 58.1-1743. Transportation district transient occupancy tax.**

In addition to all other fees and taxes imposed under law, there is hereby imposed an additional transient occupancy tax at the rate of three percent of the amount of the charge for the occupancy of any room or space occupied in any 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.

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

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

§ 58.1-1744. Local transportation transient occupancy tax.

In addition to all other fees and taxes imposed under law, there is hereby imposed an additional transient occupancy tax at the rate of two percent of the amount of the charge for the occupancy of any room or space occupied in any county or city that (i) is located in a planning district that, as of January 1, 2013, meets the criteria established in § 58.1-802.2 and (ii) is not located in a transportation district that, as of January 1, 2018, meets the criteria established in § 33.2-1936. In any case in which the tax is imposed pursuant to clause (ii), such tax shall be effective beginning on the July 1 immediately following the calendar year in which all of the criteria have been met.

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

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

§ 58.1-2289. (For contingent expiration) Disposition of tax revenue generally.

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

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

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

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

D. One and one-half cents of the tax collected on each gallon of fuel used to propel a commercial watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of the state treasury to be made available to the Board of Game and Inland Fisheries until expended for the purposes provided generally in subsection C of § 29.1-701, including acquisition, construction, improvement and maintenance of public boating access areas on the public waters of this

Commonwealth and for other activities and purposes of direct benefit and interest to the boating public and for no other purpose. However, one and one-half cents per gallon on fuel used by commercial fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be used for the construction, repair, improvement and maintenance of the public docks of this Commonwealth used by said commercial watercraft. Any expenditures for the acquisition, construction, improvement and maintenance of the public docks shall be made according to a plan developed by the Virginia Marine Resources Commission.

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

§ 58.1-2292. Definitions.

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

"Alternative fuel" means the same as that term is defined in § 58.1-2201.

"Applied period" means the period of time in which a tax rate is imposed.

"Base period" means the period of time used to calculate the statewide average distributor price.

"Commissioner" means the Commissioner of the Department of Motor Vehicles.

"Cost price" means the same as that term is defined in § 58.1-602, and also includes all federal and state excise taxes and storage tank fees paid by the distributor. "Cost price" does not include separately stated federal diesel fuel excise taxes, unless the distributor fails to exclude the federal diesel excise tax when collecting the tax imposed pursuant to this chapter.

"Department" means the Department of Motor Vehicles, acting directly or through its duly authorized officers and agents.

"Diesel fuel" means the same as that term is defined in § 58.1-2201.

"Distributor" means (i) any person engaged in the business of selling fuels in the Commonwealth who brings, or causes to be brought, into the Commonwealth from outside the Commonwealth any fuels for sale, or any other person engaged in the business of selling fuels in the Commonwealth; (ii) any person who makes, manufactures, fabricates, processes, or stores fuels in the Commonwealth for sale in the Commonwealth; or (iii) any person engaged in the business of selling fuels outside the Commonwealth who ships or transports fuels to any person in the business of selling fuels in the Commonwealth.

"Distributor charges" means the amount calculated by the Department to approximate the value of the items, on a per gallon basis, excluding the wholesale price of a gallon of fuel, upon which the tax imposed by § 58.1-2295 was calculated prior to July 1, 2018.

"Fuel" means any fuel subject to tax under Chapter 22 (§ 58.1-2200 et seq.).

"Gasoline" means the same as that term is defined in § 58.1-2201.

"Gross sales" means the same as that term is defined in § 58.1-602.

"Liquid" means the same as that term is defined in § 58.1-2201.

"Retail dealer" means any person, including a distributor, who sells fuels to a consumer or to any person for any purpose other than resale.

"Sale" means the same as that term is defined in § 58.1-602 and also includes the distribution of fuel by a distributor to itself as a retail dealer.

"Sales price" means the same as that term is defined in § 58.1-602 and also includes all transportation and delivery charges, regardless of whether the charges are separately stated on the invoice. Sales price does not include separately stated federal diesel fuel excise taxes, unless the distributor fails to exclude the federal diesel excise tax when collecting the tax imposed pursuant to this

chapter.

"Statewide average distributor price" means the statewide average wholesale price of a gallon of unleaded regular gasoline or diesel fuel, as appropriate, plus distributor charges.

"Statewide average wholesale price" means the statewide average wholesale price of a gallon of unleaded regular gasoline or diesel fuel, as appropriate, calculated pursuant to § 58.1-2217.

"Wholesale price" means the same as that term is defined in § 58.1-2201.

§ 58.1-2295. (Contingent expiration date) Levy; payment of tax.

A. 1. In addition to all other taxes now imposed by law, there is hereby imposed a tax upon every distributor who engages in the business of selling fuels at wholesale to retail dealers for retail sale in any county or city that is a member of (i) any transportation district 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 or (ii) any transportation district that is subject to subsection C of § 33.2-1915 and that is contiguous to the Northern Virginia Transportation District.

2. In addition to all other taxes now imposed by law, there is hereby imposed a tax upon every distributor who engages in the business of selling fuels at wholesale to retail dealers for retail sale in any county or city that is located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of not less than 1.5 million but fewer than two million, as shown by the most recent United States Census, has not less than 1.2 million but fewer than 1.7 million motor vehicles registered therein, and has a total transit ridership of not less than 15 million but fewer than 50 million riders per year across all transit systems within the Planning District or (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i). In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year in which all of the criteria have been met.

B. 1. The tax shall be imposed on each gallon of fuel, other than diesel fuel, sold by a distributor to a retail dealer for retail sale in any such county or city described in subsection A at a rate of 2.1 percent of the sales price charged by a distributor for fuels sold to a retail dealer for retail sale in any such county or city. In any such sale to a retail dealer in which the distributor and the retail dealer are the same person, the sales price charged by the distributor shall be the cost price to the distributor of the fuel statewide average distributor price of a gallon of unleaded regular gasoline as determined by the Commissioner pursuant to subdivision C 1. For alternative fuels other than liquid alternative fuels, the Commissioner shall determine an equivalent tax rate based on gasoline gallon equivalency.

2. The tax shall be imposed on each gallon of diesel fuel sold by a distributor to a retail dealer for retail sale in any such county or city at a rate of 2.1 percent of the statewide average distributor price of a gallon of diesel fuel as determined by the Commissioner pursuant to subdivision C 2.

C. 1. To determine the statewide average distributor price of a gallon of unleaded regular gasoline, the Commissioner shall use the period from June 1 to November 30, inclusive, as the base period for the determination of the rate of the tax for the immediately following applied period beginning January 1 and ending June 30, inclusive. The Commissioner shall use the period from December 1 to May 31, inclusive, as the base period for the determination of the rate of the tax for the immediately following applied period beginning July 1 and ending December 31, inclusive. In no case shall the statewide average distributor price of a gallon of unleaded regular gasoline determined for the purposes of this section be less than the statewide average wholesale price of a gallon of unleaded regular gasoline on February 20, 2013, plus a distributor charge calculated by the Commissioner for that date.

2. To determine the statewide average distributor price of a gallon of diesel fuel, the Commissioner shall use the period from June 1 to November 30, inclusive, as the base period for the determination of the rate of the tax for the immediately following applied period beginning January 1 and ending June 30, inclusive. The Commissioner shall use the period from December 1 to May 31, inclusive, as the base period for the determination of the rate of the tax for the immediately following applied period beginning July 1 and ending December 31, inclusive. In no case shall the statewide average distributor price of a gallon of diesel fuel determined for the purposes of this section be less than the statewide average wholesale price of a gallon of diesel fuel on February 20, 2013, plus a distributor charge calculated by the Commissioner for that date.

D. The tax levied under this section shall be imposed at the time of sale by the distributor to the retail dealer.

E. The tax imposed by this section shall be paid by the distributor, but the distributor shall separately state the amount of the tax and add such tax to the sales price or charge. Thereafter, such tax shall be a debt from the retail dealer to the distributor until paid and shall be recoverable at law in the same manner as other debts. No action at law or suit in equity under this chapter shall be maintained in the Commonwealth by any distributor who is not registered under § 58.1-2299.2 or is delinquent in the

921 payment of taxes imposed under this chapter.

922 *F. Nothing in this section shall be construed to exempt the imposition and remittance of tax pursuant*
923 *to this section in a sale to a retail dealer in which the distributor and the retail dealer are the same*
924 *person.*

925 **§ 58.1-2299. Bad debts.**

926 A. In any return filed under the provisions of this chapter, a distributor may credit, against the tax
927 shown to be due on the return, the amount of tax previously returned and paid on accounts which are
928 owed to the distributor and which have been found to be worthless within the period covered by the
929 return. The credit, however, shall not exceed the amount of the ~~uncollected sales price determined by~~
930 ~~treating prior payments on each debt as consisting of the same proportion of the sales price, tax levied~~
931 ~~under this chapter, and other nontaxable charges as the total debt originally owed to the distributor tax~~
932 ~~due pursuant to § 58.1-2295 for the relevant applied period for the fuel delivered to the worthless~~
933 ~~accounts.~~ The amount of accounts for which a credit has been taken that are thereafter in whole or in
934 part paid to the dealer shall be included in the first return filed after such collection.

935 B. Notwithstanding any other provision of this section, a distributor whose volume and character of
936 uncollectible accounts, including checks returned for insufficient funds, renders it impractical to
937 substantiate the credit on an account-by-account basis may, subject to the approval of the Department,
938 utilize an alternative method of substantiating the credit.

939 **§ 58.1-2299.10. Willful commission of prohibited acts; criminal penalties.**

940 Any person who willfully commits any of the following acts with the intent to (i) evade or
941 circumvent the taxes imposed under this chapter or (ii) assist any other person in efforts to evade or
942 circumvent such taxes is guilty of a Class 6 felony, if he:

943 1. Does not pay the taxes imposed under this chapter and diverts the proceeds from such taxes for
944 other purposes;

945 2. Is a distributor required to be registered under the provisions of this chapter, or the agent or
946 representative of such a distributor, and converts or attempts to convert proceeds from taxes imposed
947 under this chapter for the use of the distributor or the distributor's agent or representative, with the intent
948 to defraud the Commonwealth;

949 3. Illegally collects taxes imposed under this chapter when not authorized or licensed by the
950 Commissioner to do so;

951 4. Conspires with any other person or persons to engage in an act, plan, or scheme to defraud the
952 Commonwealth of proceeds from taxes levied under this chapter;

953 5. Fails to remit to the Commissioner any tax levied pursuant to this chapter, if he (i) has added, or
954 represented that he has added, the tax to the sales price for the fuel and (ii) has collected the amount of
955 the tax; or

956 6. Applies for or collects from the Department a tax credit when the person knows or has reason to
957 know that fuel for which the credit is claimed has been or will be used for a taxable purpose; however,
958 if the amount of fuel involved is not more than 20 gallons, such person is guilty of a Class 1
959 misdemeanor.

960 **§ 58.1-2299.14. Recordkeeping requirements; inspection of records; civil penalties.**

961 A. Every distributor required to make a return and pay or collect any tax under this chapter shall
962 keep and preserve suitable records of the sales taxable under this chapter, and such other books of
963 account as may be necessary to determine the amount of tax due hereunder, and such other pertinent
964 information as may be required by the Commissioner. Such records shall be kept and maintained for a
965 period to include the Department's current fiscal year and the previous three fiscal years.

966 B. The Commissioner or any agent authorized by him may examine during the usual business hours
967 all records, books, papers, or other documents of any distributor required to be registered under this
968 chapter relating to the ~~sales price amount~~ of any fuel subject to taxation under this chapter to verify the
969 truth and accuracy of any statement or any other information as to a particular sale.

970 C. Any person who fails to keep or retain records as required by this section shall be subject to a
971 civil penalty. The amount of the civil penalty assessed against a person for his first violation shall be
972 \$1,000. The amount of the civil penalty assessed against a person for each subsequent violation shall be
973 \$1,000 more than the amount of the civil penalty for the preceding violation.

974 D. Any person who refuses to allow an inspection authorized under this section shall be subject to a
975 civil penalty of \$5,000 for each refusal.

976 **§ 58.1-2299.20. (Contingent expiration date) Disposition of tax revenues.**

977 A. ~~All~~ Except as provided in subsection C, all taxes, interest, and civil penalties paid to the
978 Commissioner pursuant to this chapter for the sale of fuels at wholesale to retail dealers for retail sale in
979 any county or city set forth in subdivision A 1 of § 58.1-2295, after subtraction of the direct costs of
980 administration by the Department, shall be deposited in a special fund entitled the "Special Fund
981 Account of the Transportation District of _____." The amounts deposited in the special fund shall
982 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 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. The direct cost of administration shall be credited to the funds appropriated to the Department.

C. *An amount equal to the increase in taxes, interest, and civil penalties paid to the Commissioner in fiscal year 2019 compared to fiscal year 2018 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 1 of § 58.1-2295, after subtraction of the direct cost of administration by the Department, shall be deposited as follows:*

1. *Sixty-eight and four tenths of a percent of the funds attributable to a transportation district that meets the criteria in clause (i) of subdivision A 1 of § 58.1-2295 shall be deposited into the Washington Metropolitan Area Transit Authority Capital Fund established pursuant to § 33.2-3401;*

2. *Thirty-one and six tenths of a percent of the funds attributable to a transportation district that meets the criteria in clause (i) of subdivision A 1 of § 58.1-2295 shall be deposited into the Commuter Rail Operating and Capital Fund established pursuant to § 33.2-3500; and*

3. *All of the funds attributable to a transportation district that meets the criteria of clause (ii) of subdivision A 1 of § 58.1-2295 shall be deposited into the Commuter Rail Operating and Capital Fund established pursuant to § 33.2-3500.*

§ 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); 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~~ *subdivision* (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 United States Code; and

(5) The additional real property taxes imposed pursuant to subsection C and this subsection 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 all 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 separate class of real property for local taxation in accordance with the provisions of this section.

2. That § 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, is amended and reenacted as follows:

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

3. That 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, is amended by adding sections numbered 3.1 and 3.2 as follows:

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

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

4. That Article 10 (§ 58.1-1742) of Chapter 17 of Title 58.1 of the Code of Virginia is repealed.

5. 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 and the use of a special tax district for the Northern Virginia Transportation Commission is appropriate and necessary to support the capital needs of WMATA's rapid heavy rail mass transportation system.

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

7. That the Commonwealth Transportation Board shall withhold 20 percent of the funds available

1167 pursuant to subdivision C 3 of § 33.2-1526.1 of the Code of Virginia, as created by this act, if any
1168 alternate members participate or take action as Washington Metropolitan Area Transit Authority
1169 (WMATA) Board members for a WMATA compact member when both members appointed by
1170 that same WMATA compact member are present at the WMATA Board meeting.

1171 8. That the Department of Rail and Public Transportation, in conjunction with the Transit Service
1172 Delivery Advisory Committee, shall develop a prioritization process as required by § 33.2-214.3 of
1173 the Code of Virginia, as created by this act, for the Commonwealth Transportation Board's
1174 consideration. The Board shall implement the prioritization process required by § 33.2-214.3 no
1175 later than January 1, 2019, and use such process for the development of the Six-Year
1176 Improvement Program for fiscal years 2020 through 2025.

1177 9. That the provisions of this act shall not become effective until 30 days after the District of
1178 Columbia and the State of Maryland each enact legislation or take actions to provide dedicated
1179 funding equal to their share of the \$500 million in additional capital funding for the Washington
1180 Metropolitan Area Transit Authority, except that the provisions of §§ 33.2-214.3 and 33.2-1526.1 of
1181 the Code of Virginia, as created by this act, and § 58.1-602, subsection I of § 58.1-638, and
1182 §§ 58.1-2289, 58.1-2292, 58.1-2295, 58.1-2299, 58.1-2299.10, and 58.1-2299.14 of the Code of
1183 Virginia, as amended by this act, shall become effective in due course.

1184 10. That the Department of Motor Vehicles shall develop guidelines, with the input of relevant
1185 stakeholders, to determine the distributor charges, as defined in § 58.1-2292 of the Code of
1186 Virginia, as amended by this act, to be added to the wholesale price of a gallon of fuel in order to
1187 establish the statewide average distributor price of a gallon of fuel pursuant to § 58.1-2295 of the
1188 Code of Virginia, as it is currently effective, as amended by this act. Such guidelines shall include
1189 a procedure for a review of the items included in the distributor charge and an adjustment of the
1190 charge, if necessary, at the same time that the Department computes the tax for an applicable base
1191 period pursuant to § 58.1-2217 of the Code of Virginia. The guidelines required by this enactment
1192 shall not be subject to the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

1193 11. That the provisions of this act generating additional revenue through state taxes or fees for
1194 mass transit in the Commonwealth shall expire on December 31 of any year in which the General
1195 Assembly appropriates any of such additional revenues for any nontransportation purposes, or
1196 transfers any additional revenues that are to be deposited into the Washington Metropolitan Area
1197 Transit Authority Capital Fund pursuant to § 33.2-3401 of the Code of Virginia, as created by this
1198 act, or the Commuter Rail Operating and Capital Fund pursuant to § 33.2-3500 of the Code of
1199 Virginia, as created by this act.

1200 12. That nothing contained in this act shall be construed to appropriate or transfer any
1201 transportation revenues for nontransportation purposes pursuant to the twenty-second enactment
1202 of Chapter 896 of the Acts of Assembly of 2007, as amended by Chapter 830 of the Acts of
1203 Assembly of 2011, or the fourteenth enactment of Chapter 766 of the Acts of Assembly of 2013.

1204 13. That should any portion of this act be held unconstitutional by a court of competent
1205 jurisdiction, the remaining portions shall remain in effect.