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SENATE BILL NO. 1322

Offered January 9, 2019

Prefiled January 7, 2019

A *BILL to amend and reenact § 58.1-2299.20, as it is currently effective and as it may become effective, of the Code of Virginia, to amend the Code of Virginia by adding in Title 33.2 a chapter numbered 36, consisting of a section numbered 33.2-3600, and by adding a section numbered 58.1-2295.1, relating to tax on motor fuels.*

Patrons—Hanger and Petersen

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-2299.20, as it is currently effective and as it may become effective, of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding in Title 33.2 a chapter numbered 36, consisting of a section numbered 33.2-3600, and by adding a section numbered 58.1-2295.1 as follows:

CHAPTER 36.

INTERSTATE 81 CORRIDOR IMPROVEMENT FUND.

§ 33.2-3600. Interstate 81 Corridor Improvement Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Interstate 81 Corridor Improvement Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All revenues dedicated to the Fund pursuant to subsection D of § 58.1-2299.20, any other funds appropriated for such purpose, and any gifts, donations, grants, bequests, and other funds received on its behalf 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. Moneys in the Fund shall be used solely for the purposes of improvements in the Interstate 81 Corridor, which includes Interstate 81, Route 11, and other parallel highways, parallel railways, and related transportation facilities. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller.

B. The Board shall prioritize potential improvements in the Interstate 81 Corridor, and make funding allocations to such priorities, in a manner consistent with § 33.2-214.1.

C. The Board may use revenues from the Fund to support any bonds or other debt issued in accordance with other laws to finance improvements within the Interstate 81 Corridor.

§ 58.1-2295.1. Levy of tax in Interstate 81 Corridor; payment of tax.

A. 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 planning districts 3, 4, 5, 6, or 7, as established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2.

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 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.

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59 2. To determine the statewide average distributor price of a gallon of diesel fuel, the Commissioner
60 shall use the period from June 1 to November 30, inclusive, as the base period for the determination of
61 the rate of the tax for the immediately following applied period beginning January 1 and ending June
62 30, inclusive. The Commissioner shall use the period from December 1 to May 31, inclusive, as the base
63 period for the determination of the rate of the tax for the immediately following applied period
64 beginning July 1 and ending December 31, inclusive. In no case shall the statewide average distributor
65 price of a gallon of diesel fuel determined for the purposes of this section be less than the statewide
66 average wholesale price of a gallon of diesel fuel on February 20, 2013, plus a distributor charge
67 calculated by the Commissioner for that date.

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

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

76 F. Nothing in this section shall be construed to exempt the imposition and remittance of tax pursuant
77 to this section in a sale to a retail dealer in which the distributor and the retail dealer are the same
78 person.

79 G. Notwithstanding any other provision of law, no tax shall be imposed by the provisions of
80 subdivision A 2 of § 58.1-2295 on any fuel upon which a tax is paid pursuant to this section.

81 **§ 58.1-2299.20. (For contingent expiration date see Acts 2013, c. 766) Disposition of tax**
82 **revenues.**

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

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

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

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

100 3. All remaining funds shall be deposited in a special fund entitled the "Special Fund Account of the
101 Transportation District of ____." The amounts deposited in the special fund shall be distributed monthly
102 to the applicable transportation district commission of which the county or city is a member to be
103 applied to the operating deficit, capital, and debt service of the mass transit system of such district or, in
104 the case of a transportation district subject to the provisions of subsection C of § 33.2-1915, to be
105 applied to and expended for any transportation purpose of such district. In the case of a jurisdiction
106 which, after July 1, 1989, joins a transportation district which was established on or before January 1,
107 1986, and is also subject to subsection C of § 33.2-1915, the funds collected from that jurisdiction shall
108 be applied to and expended for any transportation purpose of such jurisdiction.

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

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

118 2. All remaining funds shall be deposited in a special fund entitled the "Special Fund Account of the
119 Transportation District of ____." The amounts deposited in the special fund shall be distributed monthly
120 to the applicable transportation district commission of which the county or city is a member to be

applied to the operating deficit, capital, and debt service of the mass transit system of such district or, in the case of a transportation district subject to the provisions of subsection C of § 33.2-1915, to be applied to and expended for any transportation purpose of such district. In the case of a jurisdiction which, after July 1, 1989, joins a transportation district that was established on or before January 1, 1986, and is also subject to subsection C of § 33.2-1915, the funds collected from that jurisdiction shall be applied to and expended for any transportation purpose of such jurisdiction.

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

D. *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 § 58.1-2295.1, after subtraction of the direct costs of administration by the Department, shall be deposited into the Interstate 81 Corridor Improvement Fund established pursuant to Chapter 36 (§ 33.2-3600) of Title 33.2.*

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

§ 58.1-2299.20. (For contingent effective date — see note) Disposition of tax revenues.

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

B. *All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in § 58.1-2295.1, after subtraction of the direct costs of administration by the Department, shall be deposited into the Interstate 81 Corridor Improvement Fund established pursuant to Chapter 36 (§ 33.2-3600) of Title 33.2.*