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**SENATE BILL NO. 583**  
**FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
 (Proposed by Senator Hanger  
 on February 13, 2018)

(Patron Prior to Substitute—Senator Hanger)

A *BILL to amend and reenact §§ 58.1-2292, 58.1-2295, as it is currently effective, 58.1-2299, 58.1-2299.10, 58.1-2299.14, and 58.1-2299.20, as it is currently effective, of the Code of Virginia and to amend the Code of Virginia by adding in Title 33.2 a chapter numbered 34, consisting of sections numbered 33.2-3400 through 33.2-3410, relating to creation of the Western Virginia Transportation Commission; funding.*

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

**1. That §§ 58.1-2292, 58.1-2295, as it is currently effective, 58.1-2299, 58.1-2299.10, 58.1-2299.14, and 58.1-2299.20, as it is currently effective, of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 33.2 a chapter numbered 34, consisting of sections numbered 33.2-3400 through 33.2-3410, as follows:**

**CHAPTER 34.**

**WESTERN VIRGINIA TRANSPORTATION COMMISSION.**

**§ 33.2-3400. Western Virginia Transportation Fund established.**

*There is hereby created in the state treasury a special nonreverting fund to be known as the Western Virginia Transportation 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 § 58.1-2299.20 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 (i) new construction projects on new or existing highways, bridges, and tunnels in the localities located in Planning Districts 1, 2, 3, 4, 5, 6, and 7, as approved by the Western Virginia Transportation Commission, and (ii) administrative and operating expenses of the Western Virginia Transportation Commission. The Western Virginia Transportation Commission shall give priority to those projects that are expected to provide the greatest impact for the greatest number of citizens in the western region of the Commonwealth.*

*The amounts dedicated to the Fund shall be deposited monthly by the Comptroller into the Fund. The amounts deposited into the Fund and the distribution and expenditure of such amounts shall not be used to calculate or reduce the share of local, federal, or state revenues otherwise available to participating jurisdictions. Further, such revenues 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 government for public education are determined.*

**§ 33.2-3401. Western Virginia Transportation Commission created.**

*The Western Virginia Transportation Commission, referred to in this chapter as "the Commission," is hereby created as a body politic and as a political subdivision of the Commonwealth. The Commission shall include each county and city that is a member of Planning Districts 1, 2, 3, 4, 5, 6, or 7, as established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2, as they existed on January 1, 2018.*

**§ 33.2-3402. Composition of Commission.**

*A. The Commission shall consist of the following members:*

*1. The chief elected officer of the governing body of each of the counties and cities embraced by the Commission;*

*2. Two members of the House of Delegates who reside in different counties or cities embraced by the Commission, appointed by the Speaker of the House, and two members of the Senate who reside in different counties or cities embraced by the Commission, appointed by the Senate Committee on Rules; and*

*3. A member of the Commonwealth Transportation Board who resides in a locality embraced by the Commission and is appointed by the Governor; the Director of the Department of Rail and Public Transportation or his designee; and the Commissioner of Highways or his designee, each of whom shall serve ex officio without voting privileges.*

*B. All members of the Commission shall serve terms coincident with their terms of office. Vacancies shall be filled in the same manner as the original appointment. If a member of the Commission who represents a locality as provided in subdivision A 1 is unable to attend a meeting of the Commission, he may designate another current elected official of such governing body to attend the meeting of the*

60 Commission. Such designation shall be for the purposes of one meeting and shall be submitted in  
61 writing or electronically to the chairman of the Commission at least 48 hours prior to the affected  
62 meeting.

63 C. The Commission shall elect a chairman and vice-chairman from among its voting membership.

64 D. The Auditor of Public Accounts, or his legally authorized representative, shall annually audit the  
65 financial accounts of the Commission, and the cost of such audit shall be borne by the Commission.

66 **§ 33.2-3403. Staff.**

67 The Commission may employ a chief executive officer and such staff as it shall determine to be  
68 necessary to carry out its duties and responsibilities under this chapter. No such person shall  
69 contemporaneously serve as a member of the Commission. The Department of Transportation and the  
70 Department of Rail and Public Transportation shall make their employees available to assist the  
71 Commission, upon request.

72 **§ 33.2-3404. Decisions of the Commission.**

73 A majority of the Commission, which majority shall include at least a majority of the chief elected  
74 officers of the counties and cities that are members of the Commission, shall constitute a quorum.  
75 Decisions of the Commission shall require a quorum and shall be in accordance with voting procedures  
76 established by the Commission. In all cases, decisions of the Commission shall require the affirmative  
77 vote of two-thirds of the members of the Commission present and voting and two-thirds of the chief  
78 elected officers of the counties and cities that are members of the Commission who are present and  
79 voting and whose counties and cities include at least two-thirds of the population embraced by the  
80 Commission; however, no motion to fund a specific facility or service shall fail because of this  
81 population criterion if such facility or service is not located or to be located or provided or to be  
82 provided within the county or city whose chief elected officer's sole negative vote caused the facility or  
83 service to fail to meet the population criterion. The population of counties and cities embraced by the  
84 Commission shall be the population as determined by the most recently preceding decennial census,  
85 except that on July 1 of the fifth year following such census, the population of each county and city  
86 shall be adjusted, based on population projections made by the Weldon Cooper Center for Public  
87 Service of the University of Virginia.

88 **§ 33.2-3405. Annual budget and allocation of expenses.**

89 A. The Commission shall adopt an annual budget and develop a funding plan and shall provide for  
90 such adoption in its bylaws. The funding plan shall provide for the expenditure of funds over a  
91 four-year to six-year period and shall align with the Statewide Transportation Plan established pursuant  
92 to § 33.2-353 to the extent possible. The Commission shall solicit public comment on its budget and  
93 funding plan by posting a summary of such budget and funding plan on its website and holding a public  
94 hearing. Such public hearing shall be advertised on the Commission's website and in newspapers of  
95 general circulation with general readership in the localities that are members of the Commission.

96 B. The administrative and operating expenses of the Commission, as provided in an annual budget  
97 adopted by the Commission, to the extent that funds for such expenses are not provided from other  
98 sources, shall be paid from the Fund. Such budget shall be limited solely to the administrative and  
99 operating expenses of the Commission and shall not include any funds for construction or acquisition of  
100 transportation facilities or the performance of any transportation service.

101 C. Members may be reimbursed for all reasonable and necessary expenses as provided in  
102 §§ 2.2-2813 and 2.2-2825, if approved by the Commission. Funding for the costs of compensation and  
103 expenses of the members shall be provided by the Commission.

104 **§ 33.2-3406. Authority to issue bonds.**

105 The Commission may issue bonds and other evidences of debt as may be authorized by this section  
106 or other law. The provisions of Article 5 (§ 33.2-1920 et seq.) of Chapter 19 shall apply, mutatis  
107 mutandis, to the issuance of such bonds or other debt. The Commission may issue bonds or other debt  
108 in such amounts as it deems appropriate. The bonds may be supported by any funds available.

109 **§ 33.2-3407. Additional powers of the Commission.**

110 A. The Commission shall have the following powers together with all powers incidental thereto or  
111 necessary for the performance of those hereinafter stated:

112 1. To sue and be sued and to prosecute and defend, at law or in equity, in any court having  
113 jurisdiction of the subject matter and of the parties;

114 2. To adopt and use a corporate seal and to alter the same at its pleasure;

115 3. To procure insurance, participate in insurance plans, and provide self-insurance; however, the  
116 purchase of insurance, participation in an insurance plan, or the creation of a self-insurance plan by  
117 the Commission shall not be deemed a waiver or relinquishment of any sovereign immunity to which the  
118 Commission or its officers, directors, employees, or agents are otherwise entitled;

119 4. To establish bylaws and make all rules and regulations, not inconsistent with the provisions of this  
120 chapter, deemed expedient for the management of the Commission's affairs;

121 5. To apply for and accept money, materials, contributions, grants, or other financial assistance from

the United States and agencies or instrumentalities thereof; the Commonwealth; and any political subdivision, agency, or instrumentality of the Commonwealth; and from any legitimate private source;

6. To acquire real and personal property or any interest therein by purchase, lease, gift, or otherwise for purposes consistent with this chapter and to hold, encumber, sell, or otherwise dispose of such land or interest for purposes consistent with this chapter;

7. To acquire, by purchase, lease, contract, or otherwise, highways, bridges, or tunnels and to construct the same by purchase, lease, contract, or otherwise;

8. In consultation with the Commonwealth Transportation Board and with each city or county in which the facility or any part thereof is or is to be located, to repair, expand, enlarge, construct, reconstruct, or renovate any or all highways, bridges, and tunnels within the localities that are members of the Commission and to acquire any real or personal property needed for any such purpose;

9. To enter into agreements or leases with public or private entities for the operation and maintenance of bridges, tunnels, transit and rail facilities, and highways;

10. To make and execute contracts, deeds, mortgages, leases, and all other instruments and agreements necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter;

11. To the extent that funds are made or become available to the Commission to do so, to employ employees, agents, advisors, and consultants, including without limitation attorneys, financial advisers, engineers, and other technical advisers, and, the provisions of any other law to the contrary notwithstanding, to determine their duties and compensation; and

12. To the extent not inconsistent with the other provisions of this chapter, and without limiting or restricting the powers otherwise given the Commission, to exercise all of the powers given to transportation district commissions by § 33.2-1919.

B. The Commission shall comply with the provisions governing localities contained in § 15.2-2108.23.

**§ 33.2-3408. Commission a responsible public entity under Public-Private Transportation Act of 1995.**

The Commission is a responsible public entity as defined in § 33.2-1800 and shall be regulated in accordance with the terms of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) and regulations and guidelines adopted pursuant thereto.

**§ 33.2-3409. Continuing responsibilities of the Commonwealth Transportation Board and the Department of Transportation.**

Except as otherwise explicitly provided in this chapter, until such time as the Commission and the Department of Transportation, or the Commission and the Commonwealth Transportation Board, agree otherwise in writing, the Commonwealth Transportation Board shall allocate funding to and the Department of Transportation shall perform or cause to be performed all maintenance and operation of the bridges, tunnels, and roadways and shall perform such other required services and activities with respect to such bridges, tunnels, and roadways as were being performed on July 1, 2018.

**§ 33.2-3410. Use of revenues by the Commission.**

Notwithstanding any other provision of this chapter, moneys received by the Commission shall be used by the Commission (i) solely for the benefit of those counties and cities that are embraced by the Commission and (ii) for administrative and operating expenses of the Commission. Such moneys shall be used by the Commission in a manner that is consistent with the purposes stated in this chapter.

**§ 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.

3. 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 the Western Virginia Transportation Commission.

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 payment of taxes imposed under this chapter.

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

#### **§ 58.1-2299. Bad debts.**

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

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

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

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

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

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

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

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

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

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

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

A. Every distributor required to make a return and pay or collect any tax under this chapter shall keep and preserve suitable records of the sales taxable under this chapter, and such other books of

account as may be necessary to determine the amount of tax due hereunder, and such other pertinent information as may be required by the Commissioner. Such records shall be kept and maintained for a period to include the Department's current fiscal year and the previous three fiscal years.

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

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

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

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

A. All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in subdivision A 1 of § 58.1-2295, 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 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. 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 3 of § 58.1-2295, after subtraction of the direct costs of administration by the Department, shall be deposited into the fund established in § 33.2-3400.

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

3. That the staff of the Blacksburg-Christianburg-Montgomery Area Metropolitan Planning Organization, the Bristol Metropolitan Planning Organization, the Roanoke Valley Transportation Planning Organization, and the Department of Transportation shall work cooperatively to assist the proper formation and effective organization of the Western Virginia Transportation Commission (the Commission), as created by this act. Until such time as the Commission is fully established and functioning, the staff of the Department of Transportation shall serve as its staff, and the Roanoke Valley Transportation Planning Organization shall provide the Commission with office space and administrative support. The Commission shall reimburse the Roanoke Valley Transportation Planning Organization for the cost of such staff, office space, and administrative support as appropriate.

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