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SENATE BILL NO. 890

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Saslaw
on February 10, 2020)

(Patron Prior to Substitute—Senator Saslaw)

A BILL to amend and reenact §§ 2.2-1509.2, 2.2-1514, as it is currently effective and as it may become effective, 5.1-2.2:2, 5.1-2.2:3, 5.1-2.16, 15.2-5928, 33.2-214, 33.2-214.4, 33.2-226, 33.2-232, 33.2-358, 33.2-365, 33.2-1502, 33.2-1524, 33.2-1526, 33.2-1526.1, 33.2-1527, 33.2-1528, 33.2-1529.1, 33.2-1530, 33.2-1532, 33.2-1604, 33.2-1700, 33.2-1701, 33.2-1708, 33.2-1709, 33.2-1803, 33.2-1803.1, 33.2-1803.1:1, 33.2-1803.2, 33.2-1809, 33.2-2300, 33.2-2301, 33.2-2400, 33.2-2509, 33.2-3601, 46.2-1507, 46.2-1546, 46.2-1573, 58.1-608.3, 58.1-638, 58.1-638.3, as it is currently effective, 58.1-802.3, 58.1-811, as it is currently effective, 58.1-815.4, as it is currently effective, 58.1-816, 58.1-1741, 58.1-1743, 58.1-1744, 58.1-2217, 58.1-2249, 58.1-2289, 58.1-2295, as it is currently effective, 58.1-2299.20, as it is currently effective and as it may become effective, 58.1-2425, as it is currently effective and as it may become effective, 58.1-2531, and 58.1-2701, as it is currently effective, of the Code of Virginia and § 2 of Chapter 8 of the Acts of Assembly of 1989, Special Session II, as amended by the second enactment of Chapter 538 of the Acts of Assembly of 1999 and by the first enactment of Chapter 296 of the Acts of Assembly of 2013; to amend the Code of Virginia by adding in Chapter 2 of Title 33.2 an article numbered 6, consisting of sections numbered 33.2-287 through 33.2-299.8, by adding in Article 5 of Chapter 3 of Title 33.2 sections numbered 33.2-372, 33.2-373, and 33.2-374, by adding sections numbered 33.2-1524.1, 33.2-1526.1:1, 33.2-1526.1:2, and 33.2-1526.2 through 33.2-1526.5, by adding in Title 46.2 a chapter numbered 7, consisting of sections numbered 46.2-770 through 46.2-774, and by adding a section numbered 58.1-802.4; and to repeal §§ 33.2-1601, 33.2-1603, 46.2-702.1 and 46.2-702.1:1, 58.1-2217.1, and 58.1-2295.1 of the Code of Virginia and the fifth enactments of Chapters 837 and 846 of the Acts of Assembly of 2019, relating to transportation.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1509.2, 2.2-1514, as it is currently effective and as it may become effective, 5.1-2.2:2, 5.1-2.2:3, 5.1-2.16, 15.2-5928, 33.2-214, 33.2-214.4, 33.2-226, 33.2-232, 33.2-358, 33.2-365, 33.2-1502, 33.2-1524, 33.2-1526, 33.2-1526.1, 33.2-1527, 33.2-1528, 33.2-1529.1, 33.2-1530, 33.2-1532, 33.2-1604, 33.2-1700, 33.2-1701, 33.2-1708, 33.2-1709, 33.2-1803, 33.2-1803.1, 33.2-1803.1:1, 33.2-1803.2, 33.2-1809, 33.2-2300, 33.2-2301, 33.2-2400, 33.2-2509, 33.2-3601, 46.2-1507, 46.2-1546, 46.2-1573, 58.1-608.3, 58.1-638, as it is currently effective, 58.1-638.3, 58.1-802.3, 58.1-811, as it is currently effective, 58.1-815.4, as it is currently effective, 58.1-816, 58.1-1741, 58.1-1743, 58.1-1744, 58.1-2217, 58.1-2249, 58.1-2289, 58.1-2295, as it is currently effective, 58.1-2299.20, as it is currently effective and as it may become effective, 58.1-2425, as it is currently effective and as it may become effective, 58.1-2531, and 58.1-2701, 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 Chapter 2 of Title 33.2 an article numbered 6, consisting of sections numbered 33.2-287 through 33.2-299.8, by adding in Article 5 of Chapter 3 of Title 33.2 sections numbered 33.2-372, 33.2-373, and 33.2-374, by adding sections numbered 33.2-1524.1, 33.2-1526.1:1, 33.2-1526.1:2, and 33.2-1526.2 through 33.2-1526.5, by adding in Title 46.2 a chapter numbered 7, consisting of sections numbered 46.2-770 through 46.2-774, and by adding a section numbered 58.1-802.4 as follows:

§ 2.2-1509.2. Budget Bill to include amounts diverted from Commonwealth Transportation Fund.

If any money in the ~~Highway Maintenance and Operating Fund established pursuant to § 33.2-1530 or the~~ *Commonwealth* Transportation ~~Trust~~ Fund established pursuant to § 33.2-1524 is proposed to be used for any purpose other than administering, planning, constructing, improving, and maintaining the roads embraced in the systems of highways for the Commonwealth and its localities and/or furthering the interests of the Commonwealth in the areas of public transportation, railways, seaports, and/or airports, then the Governor, if such diversion is proposed by the Governor, shall include with any such proposal a plan for repayment of funds diverted within three years of such use in "The Budget Bill" submitted pursuant to § 2.2-1509.

If such diversion of funds from the ~~Highway Maintenance and Operating Fund or the~~ *Commonwealth* Transportation ~~Trust~~ Fund is proposed by the General Assembly as an amendment to the Budget Bill, such amendment shall include language setting out the plan for repayment of such funds within three years.

§ 2.2-1514. (Contingent expiration date) Commitment of general fund for nonrecurring expenditures.

A. As used in this section:

"The Budget Bill" means "The Budget Bill" submitted pursuant to § 2.2-1509, including any amendments to a general appropriation act pursuant to such section.

"Nonrecurring expenditures" means the acquisition or construction of capital outlay projects as defined in § 2.2-1518, the acquisition or construction of capital improvements, the acquisition of land, the acquisition of equipment, or other expenditures of a one-time nature as specified in the general appropriation act.

B. At the end of each fiscal year, the Comptroller shall commit within his annual report pursuant to § 2.2-813 as follows: 67 percent of the remaining amount of the general fund balance that is not otherwise restricted, committed, or assigned for other usage within the general fund shall be committed by the Comptroller for deposit into the *Commonwealth* Transportation ~~Trust~~ Fund established pursuant to § 33.2-1524 or a subfund thereof, and the remaining amount shall be committed for nonrecurring expenditures. No such commitment shall be made unless the full amounts required for other restrictions, commitments, or assignments including but not limited to (i) the Revenue Stabilization Fund deposit pursuant to § 2.2-1829, (ii) the Virginia Water Quality Improvement Fund deposit pursuant to § 10.1-2128, but excluding any deposits provided under the Virginia Natural Resources Commitment Fund established under § 10.1-2128.1, (iii) capital outlay reappropriations pursuant to the general appropriation act, (iv)(a) operating expense reappropriations pursuant to the general appropriation act, and (b) reappropriations of unexpended appropriations to certain public institutions of higher education pursuant to § 23.1-1002, (v) pro rata rebate payments to certain public institutions of higher education pursuant to § 23.1-1002, (vi) the unappropriated balance anticipated in the general appropriation act for the end of such fiscal year, (vii) interest payments on deposits of certain public institutions of higher education pursuant to § 23.1-1002, and (viii) the Revenue Reserve Fund deposit pursuant to § 2.2-1831.2 are set aside. The Comptroller shall set aside amounts required for clauses (iv)(b), (v), and (vii) beginning with the initial fiscal year as determined under § 23.1-1002 and for all fiscal years thereafter.

C. The Governor shall include in "The Budget Bill" pursuant to § 2.2-1509 recommended appropriations from the general fund or recommended amendments to general fund appropriations in the general appropriation act in effect at that time an amount for deposit into the *Commonwealth* Transportation ~~Trust~~ Fund or a subfund thereof, and an amount for nonrecurring expenditures equal to the amounts committed by the Comptroller for such purposes pursuant to the provisions of subsection B. Such deposit to the *Commonwealth* Transportation ~~Trust~~ Fund or a subfund thereof shall not preclude the appropriation of additional amounts from the general fund for transportation purposes.

§ 2.2-1514. (Contingent effective date) Commitment of general fund for nonrecurring expenditures.

A. As used in this section:

"The Budget Bill" means "The Budget Bill" submitted pursuant to § 2.2-1509, including any amendments to a general appropriation act pursuant to such section.

"Nonrecurring expenditures" means the acquisition or construction of capital outlay projects as defined in § 2.2-1518, the acquisition or construction of capital improvements, the acquisition of land, the acquisition of equipment, or other expenditures of a one-time nature as specified in the general appropriation act.

B. At the end of each fiscal year, the Comptroller shall commit within his annual report pursuant to § 2.2-813 as follows: 67 percent of the remaining amount of the general fund balance that is not otherwise restricted, committed, or assigned for other usage within the general fund shall be committed by the Comptroller for deposit into the *Commonwealth* Transportation ~~Trust~~ Fund established pursuant to § 33.2-1524 or a subfund thereof, and the remaining amount shall be committed for nonrecurring expenditures. No such commitment shall be made unless the full amounts required for other restrictions, commitments, or assignments including but not limited to (i) the Revenue Stabilization Fund deposit pursuant to § 2.2-1829, (ii) the Virginia Water Quality Improvement Fund deposit pursuant to § 10.1-2128, but excluding any deposits provided under the Virginia Natural Resources Commitment Fund established under § 10.1-2128.1, (iii) capital outlay reappropriations pursuant to the general appropriation act, (iv)(a) operating expense reappropriations pursuant to the general appropriation act, and (b) reappropriations of unexpended appropriations to certain public institutions of higher education pursuant to § 23.1-1002, (v) pro rata rebate payments to certain public institutions of higher education pursuant to § 23.1-1002, (vi) the unappropriated balance anticipated in the general appropriation act for the end of such fiscal year, (vii) interest payments on deposits of certain public institutions of higher education pursuant to § 23.1-1002, and (viii) the Revenue Reserve Fund deposit pursuant to § 2.2-1831.2 are set aside. The Comptroller shall set aside amounts required for clauses (iv) (b), (v), and (vii) beginning with the initial fiscal year as determined under § 23.1-1002 and for all fiscal years thereafter.

C. The Governor shall include in "The Budget Bill" pursuant to § 2.2-1509 recommended appropriations from the general fund or recommended amendments to general fund appropriations in the general appropriation act in effect at that time an amount for deposit into the *Commonwealth*

Transportation ~~Trust~~ Fund or a subfund thereof, and an amount for nonrecurring expenditures equal to the amount committed by the Comptroller for such purpose pursuant to the provisions of subsection B. Such deposit to the *Commonwealth* Transportation ~~Trust~~ Fund or a subfund thereof shall not preclude the appropriation of additional amounts from the general fund for transportation purposes.

§ 5.1-2.2:2. Commercial air service plan.

A. The Board shall develop and review every five years a commercial air service plan for commercial air service airports within the Commonwealth. In developing and reviewing such plan, the Board shall (i) analyze trends in commercial air service generally, (ii) analyze the current and projected future demographic and economic trends related to air travel needs in the Commonwealth, (iii) solicit input from other appropriate stakeholders, (iv) consider any other factors determined to be appropriate by the Board, and (v) establish reasonable goals for commercial air service based on clauses (i) through (iv).

B. In developing the plan pursuant to subsection A, the Board shall coordinate with each commercial air service airport.

C. Prior to the allocation of funds pursuant to ~~subdivision A 3 of § 58.1-638~~ *§ 33.2-1526.4*, the Board shall ensure that any requested funds are not inconsistent with the Board's commercial air service plan and that no commercial service airport is penalized for not meeting goals set forth in such commercial air service plan.

§ 5.1-2.2:3. Transparency and accountability in the use of Commonwealth Aviation Fund revenues.

A. By November 1 of each year, the Board shall report to the Governor and the General Assembly on the use of Commonwealth ~~Airport~~ *Aviation* Fund revenues the previous fiscal year. The report shall include at a minimum the following:

1. The use of entitlement funds allocated pursuant to subdivision ~~A 3 a of § 58.1-638~~ *B 1 of § 33.2-1526.4* by each air carrier airport, including the amount of funds that are unobligated;

2. The award and use of discretionary funds allocated for air carrier and reliever airports pursuant to subdivision ~~A 3 b (1) (a) of § 58.1-638~~ *B 2 a (1) of § 33.2-1526.4* by every such airport;

3. The award and use of discretionary funds allocated for general aviation airports pursuant to subdivision ~~A 3 b (1) (b) of § 58.1-638~~ *B 2 a (2) of § 33.2-1526.4* by every such airport; and

4. The award and use of discretionary funds allocated for all airports pursuant to subdivision ~~A 3 b (2) of § 58.1-638~~ *B 2 b of § 33.2-1526.4* by every such airport.

Such report shall also include the status of ongoing projects funded in whole or in part by the Commonwealth ~~Airport~~ *Aviation* Fund pursuant to subdivision~~A 3 of § 58.1-638~~ *§ 33.2-1526.4*.

B. Each year prior to the release of entitlement funds allocated pursuant to ~~subdivision A 3 a of § 58.1-638~~ *B 1 of § 33.2-1526.4*, each air carrier airport shall submit a plan that outlines the planned use of such funds for the upcoming fiscal year to the Board for review and approval. The Board shall approve such plan provided that the use of funds is in accordance with Board policies. An airport may modify its plan during a fiscal year by submitting a revised plan to the Board for review.

C. The Board shall have the right to withhold entitlement funds allocated pursuant to subdivision ~~A 3 a of § 58.1-638~~ *B 1 of § 33.2-1526.4* in the event that the entitlement utilization plan is not approved by the Board or the airport uses the funds in a manner that is inconsistent with the approved plan.

§ 5.1-2.16. Grants or loans of public or private funds.

The Board is authorized to accept, receive, receipt for, disburse, and expend federal and state moneys and other moneys, public or private, made available by grant or loan or both, to accomplish, in whole or in part, any of the purposes of this chapter. All federal moneys accepted under this section shall be accepted and expended by the Board upon such terms and conditions as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under this section shall be accepted and expended by the Board upon such terms and conditions as are prescribed by the Commonwealth. State moneys allocated pursuant to ~~subdivision A 3 of § 58.1-638~~ *§ 33.2-1526.4* shall not be used for (i) operating costs unless otherwise approved by the Board or (ii) purposes related to supporting the operation of an airline, either directly or indirectly, through grants, credit enhancements, or other related means.

In considering or evaluating the application for or award of any grant of moneys under this section, the Board shall take into account the capacities of all airports within the affected geographic region.

§ 15.2-5928. Definitions.

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

"City" or "City of Virginia Beach" means the City of Virginia Beach or the City of Virginia Beach Development Authority.

"Sales and use tax revenues" means tax collections under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.), as limited herein, generated by transactions taking place upon the premises of a sports or entertainment project, including transactions generating revenues in connection with the

development and construction of such project that would not be generated but for the existence of such project. For purposes of this chapter, "sales and use tax revenues" does not include the revenue generated by (i) the one-half percent sales and use tax increase enacted by Chapters 11, 12, and 15 of the Acts of Assembly of 1986, Special Session I, which shall be paid into the *Commonwealth* Transportation ~~Trust~~ Fund as defined in § 33.2-1524; (ii) the one percent of the state sales and use tax revenue distributed among the counties and cities of the Commonwealth pursuant to subsection D of § 58.1-638 on the basis of school-age population; and (iii) the additional state sales and use tax in certain counties and cities assessed pursuant to Chapter 766 of the Acts of Assembly of 2013 and any amendments thereto.

"Sports and entertainment district" means the geographic area in the City of Virginia Beach located south of 21st Street, north of Norfolk Avenue, east of Birdneck Road, and west of Atlantic Avenue.

"Sports or entertainment project" means a project including sports facilities, entertainment facilities, or both, representing at least $100 million of investment in the sports and entertainment district of the City of Virginia Beach, including any office, restaurant, concessions, retail, residential, and lodging facilities that are owned and operated adjacent to or in connection with such sports or entertainment project; film and sound studios and any other sports or entertainment-related infrastructure; and any other directly related properties, including onsite and offsite parking lots, garages, and other properties. "Sports or entertainment project" includes multiple facilities located on multiple properties, provided that such facilities share a nexus of ownership or management.

§ 33.2-214. Transportation; Six-Year Improvement Program.

A. The Board shall have the power and duty to monitor and, where necessary, approve actions taken by the Department of Rail and Public Transportation pursuant to Article 5 (§ 33.2-281 et seq.) in order to ensure the efficient and economical development of public transportation, the enhancement of rail transportation, and the coordination of such rail and public transportation plans with highway programs.

B. The Board shall have the power and duty to coordinate the planning for financing of transportation needs, including needs for highways, railways, seaports, airports, and public transportation and set aside funds as provided in ~~§ 33.2-1524~~ *§ 33.2-1524.1*. To allocate funds for these needs pursuant to ~~§§~~ *§* 33.2-358 and ~~58.1-638~~ *Chapter 15 (§ 33.2-1500 et seq.)*, the Board shall adopt a Six-Year Improvement Program of anticipated projects and programs by July 1 of each year. This program shall be based on the most recent official *Commonwealth* Transportation ~~Trust~~ Fund revenue forecast and shall be consistent with a debt management policy adopted by the Board in consultation with the Debt Capacity Advisory Committee and the Department of the Treasury.

C. The Board shall have the power and duty to enter into contracts with local districts, commissions, agencies, or other entities created for transportation purposes.

D. The Board shall have the power and duty to promote increasing private investment in the Commonwealth's transportation infrastructure, including acquisition of causeways, bridges, tunnels, highways, and other transportation facilities.

E. The Board shall only include a project or program wholly or partially funded with funds from the State of Good Repair Program pursuant to § 33.2-369, the High Priority Projects Program pursuant to § 33.2-370, ~~or~~ the Highway Construction District Grant Programs pursuant to § 33.2-371, *or the Interstate Operations and Enhancement Program pursuant to § 33.2-373* in the Six-Year Improvement Program if the allocation of funds from those programs and other funding committed to such project or program within the six-year horizon of the Six-Year Improvement Program is sufficient to complete the project or program. The provisions of this subsection shall not apply to any project (i) the design and construction of which cannot be completed within six years, (ii) the estimated costs of which exceed $2 billion, and (iii) that requires the Board to exercise its authority to waive the funding cap pursuant to subsection B of § 33.2-369.

F. The Board shall have the power and duty to integrate land use with transportation planning and programming, consistent with the efficient and economical use of public funds. If the Board determines that a local transportation plan described in § 15.2-2223 or any amendment as described in § 15.2-2229 or a metropolitan regional long-range transportation plan or regional Transportation Improvement Program as described in § 33.2-3201 is not consistent with the Board's Statewide Transportation Plan developed pursuant to § 33.2-353, the Six-Year Improvement Program adopted pursuant to subsection B, and the location of routes to be followed by roads comprising systems of state highways pursuant to subsection A of § 33.2-208, the Board shall notify the locality of such inconsistency and request that the applicable plan or program be amended accordingly. If, after a reasonable time, the Board determines that there is a refusal to amend the plan or program, then the Board may reallocate funds that were allocated to the nonconforming project as permitted by state or federal law. However, the Board shall not reallocate any funds allocated pursuant to § 33.2-319 or 33.2-366, based on a determination of inconsistency with the Board's Statewide Transportation Plan or the Six-Year Improvement Program nor shall the Board reallocate any funds, allocated pursuant to subsection C or D of § 33.2-358, from any projects on highways controlled by any county that has withdrawn, or elects to withdraw, from the

secondary system of state highways based on a determination of inconsistency with the Board's Statewide Transportation Plan or the Six-Year Improvement Program. If a locality or metropolitan planning organization requests the termination of a project, and the Department does not agree to the termination, or if a locality or metropolitan planning organization does not advance a project to the next phase of construction when requested by the Board and the Department has expended state or federal funds, the locality or the localities within the metropolitan planning organization may be required to reimburse the Department for all funds expended on the project. If, after design approval by the Chief Engineer of the Department, a locality or metropolitan planning organization requests alterations to a project that, in the aggregate, exceeds 10 percent of the total project costs, the locality or the localities within the metropolitan planning organization may be required to reimburse the Department for the additional project costs above the original estimates for making such alterations.

§ 33.2-214.4. Statewide prioritization for the Commonwealth Mass Transit Fund.

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

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

B. 1. The Board shall create for the Department of Rail and Public Transportation a Transit Service Delivery Advisory Committee, consisting of two members appointed by the Virginia Transit Association, one member appointed by the Community Transportation Association of Virginia, one member appointed by the Virginia Municipal League, one member appointed by the Virginia Association of Counties, and three members appointed by the Director of the Department of Rail and Public Transportation, to advise the Department of Rail and Public Transportation in the development of the process set forth in subdivision 2. The Transit Service Delivery Advisory Committee shall elect a chairman from among its membership. The Department of Rail and Public Transportation shall provide administrative support to the Transit Service Delivery Advisory Committee. The Transit Service Delivery Advisory Committee shall meet at least annually and consult with interested stakeholders and hold at least one public hearing and report its findings to the Director of the Department of Rail and Public Transportation.

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

§ 33.2-226. Authority to lease or convey airspace.

The Commissioner of Highways may lease or sell and convey the airspace superjacent or subjacent to any highway in the Commonwealth that is within his jurisdiction and in which the Commonwealth owns fee simple title after satisfying itself that use of the airspace will not impair the full use and safety of the highway or otherwise interfere with the free flow of traffic thereon and it cannot be reasonably foreseen as needed in the future for highway and other transit uses and purposes. The Commissioner of Highways may provide in such leases and conveyances of airspace for columns of support, in fee or otherwise, ingress, egress, and utilities.

No lease or conveyance shall be entered into by the Commissioner of Highways unless the locality, by action of its governing body by majority recorded vote, approves the projected use of the airspace in question and has taken such steps as it deems proper to regulate the type and use of the improvements to be erected in such airspace by appropriate zoning or other method of land use control.

All leases and conveyances shall contain those terms deemed necessary by the Commissioner of Highways to protect the interests of the Commonwealth and the public. The Commissioner of Highways may utilize any competitive procurement process authorized by law, including (i) competitive sealed bidding, (ii) competitive negotiation, (iii) best value procurements as defined in § 2.2-4301, and (iv) public-private partnerships pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.), as determined by the Commissioner of Highways, in his sole discretion, to be appropriate and the method most likely to achieve the identified goals of the proposed lease or sale and conveyance of airspace. The Commissioner of Highways may reject any bid or offer that he believes is not in the best interest of the Commonwealth.

Compensation paid for such leases and conveyances shall be credited to the *Priority* Transportation ~~Trust~~ Fund established pursuant to § ~~33.2-1524~~ *33.2-1527*.

§ 33.2-232. Bienniel reports by Commissioner of Highways and the Office of Intermodal Planning and Investment.

A. The Secretary of Transportation shall ensure that the reports required under subsections B and C are provided in writing to the Governor, the General Assembly, and the Commonwealth Transportation Board by the dates specified.

B. The Commissioner of Highways shall provide to each recipient specified in subsection A, no later than November 1 of each even-numbered year, a report, the content of which shall be specified by the Board and shall contain, at a minimum:

1. The methodology used to determine maintenance needs, including an explanation of the transparent methodology used for the allocation of funds from the Highway Maintenance and Operating Fund pursuant to subsection A of § 33.2-352;

2. The methodology approved by the Board for the allocation of funds for state of good repair purposes as defined in § 33.2-369 and, if necessary, an explanation and rationale for any waiver of the cap provided for in subsection B of § 33.2-369;

3. The expenditures from the Highway Maintenance and Operating Program for the past fiscal year by asset class or activity and by construction district as well as the planned expenditure for the current fiscal year;

4. A description of transportation systems management and operations in the Commonwealth and the operating condition of primary and secondary state highways, including location and average duration of incidents;

5. A listing of prioritized pavement and bridge needs based on the priority ranking system developed by the Board pursuant to § 33.2-369 and a description of the priority ranking system;

6. A description of actions taken to improve highway operations within the Commonwealth, including the use of funds in the Innovation and Technology Transportation Fund established pursuant to § 33.2-1531; ~~and~~

7. *The use of funds in the Robert O. Norris Bridge and Statewide Special Structure Fund established pursuant to § 33.2-1532; and*

8. A review of the Department's collaboration with the private sector in delivering services.

C. The Office of Intermodal Planning and Investment of the Secretary of Transportation shall provide to each recipient specified in subsection A, no later than November 1 of each odd-numbered year, a report, the content of which shall be specified by the Board and shall contain, at a minimum:

1. A list of transportation projects approved or modified during the prior fiscal year, including whether each such project was evaluated pursuant to § 33.2-214.1 and the program from which each such project received funding;

2. The results of the most recent project evaluations pursuant to § 33.2-214.1, including a comparison of (i) projects selected for funding with projects not selected for funding, (ii) funding allocated by district and by mode of transportation, and (iii) the size of projects selected for funding;

3. The current performance of the Commonwealth's surface transportation system, the targets for future performance, and the progress toward such targets based on the measures developed pursuant to § 2.2-229;

4. The status of the Virginia Transportation Infrastructure Bank, including the balance in the Bank, funding commitments made over the prior fiscal year, and performance of the current loan portfolio;

5. The status of the Toll Facilities Revolving Account, including the balance in the account, project commitments from the account, repayment schedules, and the performance of the current loan portfolio; and

6. Progress made toward achieving the performance targets established by the Commonwealth Transportation Board.

D. The purpose of the reports required pursuant to this section is to ensure transparency and accountability in the use of transportation funds. Reports required by this section shall be made available to the public on the website of the Commonwealth Transportation Board.

Article 6.

Virginia Passenger Rail Authority Act.

§ 33.2-287. Definitions.

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

"Authority" means the Virginia Passenger Rail Authority.

"Board" means the Board of Directors of the Authority.

"Bonds" means the revenue notes, bonds, certificates and other evidences of indebtedness or obligations of the Authority.

"Cost" means, as applied to rail facilities, (i) the cost of construction; (ii) the cost of acquisition of all lands, structures, fixtures, rights-of-way, franchises, easements, and other property rights and interests; (iii) the cost of demolishing, removing, or relocating any buildings, structures, or fixtures on lands acquired, including the cost of acquiring any lands to which such buildings, structures, or fixtures may be moved or relocated; (iv) the cost of all labor, materials, machinery, and equipment; (v) financing charges and interest on all bonds prior to and during construction and for one year after completion of construction; (vi) the cost of engineering, financial, and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, and other expenses incidental to determining the feasibility of acquiring, constructing, operating, or maintaining rail facilities; (vii) administrative expenses, provisions for working capital, reserves for interest and for extensions, enlargements, additions, and improvements; and (viii) such other expenses as may be necessary or incidental to the acquisition, construction, financing, operations, and maintenance of rail facilities. Any obligation or expense incurred by the Commonwealth or any agency thereof for studies, surveys, borings, preparation of plans, and specification or other work or materials in the acquisition or construction of rail facilities may be regarded as a part of the cost of rail facilities and may be reimbursed to the Commonwealth or any agency thereof out of the proceeds of the bonds issued for such rail facilities as herein authorized.

"Department" means the Department of Rail and Public Transportation.

"Rail facilities" means the assets consisting of the real, personal, or mixed property, or any interest in that property, whether tangible or intangible, that are determined to be necessary or convenient for the provision of passenger rail service. "Rail facilities" includes all property or interests necessary or convenient for the acquiring, providing, using, equipping, or maintaining of a rail facility or system, including right-of-way, trackwork, train controls, stations, and maintenance facilities.

"Transportation Board" means the Commonwealth Transportation Board.

§ 33.2-288. Declaration of public purpose; Virginia Passenger Rail Authority.

A. The General Assembly finds and determines that (i) it is the policy of the Commonwealth to improve, identify, encourage, and promote new approaches to economic development throughout the Commonwealth; (ii) passenger rail travel and services are integral to the economic development and expansion of the Commonwealth's economy; and (iii) there exists in the Commonwealth a need to increase passenger rail capacity in the Commonwealth and improve passenger rail services.

B. In order to increase passenger rail capacity and improve passenger rail services and to promote the industrial and economic development of the Commonwealth, there is hereby created a body corporate and political subdivision of the Commonwealth to be known as the "Virginia Passenger Rail Authority." The Authority is hereby constituted as a public instrumentality exercising public and essential governmental functions, and the exercise of powers conferred by this article shall be deemed to be the performance of an essential governmental function and matters of public necessity for which public moneys may be spent and private property acquired.

C. The purpose of the Authority shall be to promote, sustain, and expand the availability of passenger and commuter rail service in the Commonwealth and to increase ridership of such service by connecting population centers in Virginia with passenger and commuter rail service and increasing availability of such service.

§ 33.2-289. Board of Directors.

A. The Authority shall be governed by the Board of Directors of the Authority consisting of 15 members as follows: (i) 12 nonlegislative citizen members, appointed by the Governor, who shall serve with voting privileges; (ii) one nonlegislative citizen member appointed by the Governor who shall represent the National Passenger Railroad Corporation and who shall serve without voting privileges; (iii) the chief executive officer of a commuter rail service jointly operated by the Northern Virginia Transportation District established pursuant to § 33.2-1904 and the Potomac Rappahannock Transportation District established pursuant to the Transportation District Act (§ 33.2-1900 et seq.), who shall serve ex officio without voting privileges; and (iv) the Director of the Department who shall serve

ex officio and shall have voting privileges only in the event of a tie. Of the ten nonlegislative citizen members with voting privileges:

1. Three members shall reside within the boundaries of the Northern Virginia Transportation District established pursuant to § 33.2-1904;

2. Three members shall reside within the boundaries of the Potomac-Rappahannock Transportation District established pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.);

3. Two members shall reside within the boundaries of the Richmond Metropolitan Transportation Authority established pursuant to Chapter 29 (§ 33.2-2900 et seq.);

4. Two members shall reside within the boundaries of the Hampton Roads Transportation Accountability Commission established pursuant to Chapter 26 (§ 33.2-2600 et seq.); and

5. Two members shall reside within the boundaries of Planning District 5, 9, 10, or 11.

B. The nonlegislative citizen members appointed by the Governor shall be subject to confirmation by the General Assembly. Vacancies shall be filled by appointment by the Governor for the unexpired term and shall be effective until 30 days after the next meeting of the ensuing General Assembly and, if confirmed, thereafter for the remainder of the term. No member shall be eligible to serve more than two consecutive four-year terms. The remainder of any term for which a member is appointed to fill a vacancy shall not constitute a term in determining that member's eligibility for reappointment. No member of a governing body of a locality shall be eligible, during the term of office for which he was elected or appointed, to serve as an appointed member of the Board. The Director shall serve terms coincident with his term of office.

C. The Director of the Department shall serve as chairman of the Board. The Board shall annually elect from among its members a vice-chairman and a secretary. The Board shall also annually elect a treasurer, who need not be a member of the Board, and may also elect other subordinate officers who need not be a member of the Board, as it deems proper. The chairman or, in his absence, the vice-chairman shall preside at all meetings of the Board. In the absence of both the chairman and vice-chairman, the Board shall appoint a chairman pro tempore, who shall preside at such meetings.

D. Seven members shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. All actions of the Board shall require the affirmative vote of a majority of the members present and voting, except that the sale of land or issuance of bonds shall require an affirmative vote of nine members present and voting.

E. The Board shall meet at least once quarterly. The Board shall determine the times and places of its regular meetings. Special meetings of the Board shall be held when requested by three or more members of the Board. Any such request for a special meeting shall be in writing, and the request shall specify the time and place of the meeting and the matters to be considered at the meeting. A reasonable effort shall be made to provide each member with notice of any special meeting. No matter not specified in the notice shall be considered at such special meeting unless all members of the Board are present.

F. The members of the Board shall be entitled to reimbursement for their reasonable travel, meal, and lodging expenses incurred in attending the meetings of the Board or while otherwise engaged in the discharge of their duties. Such expenses shall be paid out of the treasury of the Authority upon vouchers signed by the chairman of the Board or by such other person or persons as may be designated by the Board for this purpose.

§ 33.2-290. Executive Director; agents and employees.

A. The Board shall employ an Executive Director of the Authority, who shall not be a member of the Board and who shall serve at the pleasure of the Board, to direct the day-to-day operations and activities of the Authority and carry out the powers and duties conferred upon him as may be delegated to him by the Board. The Executive Director's compensation from the Commonwealth shall be fixed by the Board in accordance with law. This compensation shall be established at a level that will enable the Authority to attract and retain a capable Executive Director.

B. The Executive Director shall employ or retain such other agents or employees subordinate to the Executive Director as may be necessary, subject to the Board's approval.

C. Employees of the Authority shall be employed on such terms and conditions as established by the Authority and shall be considered employees of the Commonwealth. Employees of the Authority shall be eligible for membership in the Virginia Retirement System or other retirement plans authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 and participation in all health and related insurance and other benefits, including premium coverage and flexible benefits, available to state employees and provided by law. The Board shall develop and adopt personnel rules, policies, and procedures to give its employees grievance rights, ensure that employment decisions shall be based upon merit and fitness of applicants, and prohibit discrimination on the basis of race, religion, color, national origin, sex, pregnancy, child birth or related medical conditions, age, sexual orientation, marital status, or disability. Notwithstanding any other provision of law, the Board shall develop, implement, and administer a paid leave program, which may include annual, personal, and sick leave or any

combination thereof. All other leave benefits shall be administered in accordance with Chapter 11 (§ 51.1-1100 et seq.) or Chapter 11.1 (§ 51.1-1150 et seq.) of Title 51.1, except as otherwise provided in this section.

§ 33.2-291. Local authorities subordinate to Authority.

Any conflict between any authority granted to localities or other entities of the Commonwealth, other than the Transportation Board and the Department, with respect to the ownership or use of rail facilities or the provision of passenger rail service, or the exercise of that authority, and the exercise of the authority granted by the Board under this article shall be resolved in favor of the exercise of such authority by the Board. Rights-of-way transferred to the Authority from a railroad shall not be subject to the requirements of any local ordinances enacted pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2.

§ 33.2-292. Powers of the Authority.

A. The Authority, in addition to other powers enumerated in this article, is hereby granted and shall have and may exercise all powers necessary or convenient for the carrying out of its statutory purposes, including, but without limiting the generality of the foregoing, the power to:

1. Make and adopt bylaws, rules, and regulations;

2. Adopt, use, and alter at will a common seal;

3. Maintain offices;

4. Sue and be sued, implead and be impleaded, complain, and defend in all courts in its own name, however this shall not be deemed a waiver or relinquishment of any sovereign immunity to which the Authority or its officers, directors, employees, or agents are otherwise entitled;

5. Grant others the privilege to design, build, finance, operate, and maintain rail facilities;

6. Grant others the privilege to operate concessions, leases, and franchises, including but not limited to the accommodation and comfort of persons using rail facilities and the provision of ground transportation services and parking facilities for such persons;

7. Borrow money and issue bonds to finance and refinance rail facilities pursuant to § 33.2-294; and pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of the obligations of the Authority, subject to the limitations in subsection J of § 33.2-294.

8. Fix, alter, charge, and collect fees, rates, rentals, and other charges for the use of rail facilities, the sale of products, or services rendered by the Authority at rates to be determined by it for the purpose of providing for the payment of (i) expenses of the Authority; (ii) the costs of planning, development, construction, improvement, rehabilitation, repair, furnishing, maintenance, and operation of its rail facilities and properties; (iii) the costs of accomplishing its purposes set forth in § 33.2-288; and (iv) the principal of and interest on its obligations, and the funding of reserves for such purposes, and the costs of maintaining, repairing, and operating any rail facilities and fulfilling the terms and provisions of any agreement made with the purchasers or holders of any such obligations;

9. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this article, including interstate compacts and agreements with any person, federal agency, or political subdivision of the Commonwealth;

10. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and agents as may be necessary and fix their compensation to be payable from funds lawfully available to the Authority;

11. Appoint advisory committees as may be necessary for the performance of its duties, the furtherance of its purposes, and the execution of its powers under this article;

12. Vacate or change location of any portion of any public highway, street, public way, public utility, sewer, pipe, main, conduit, cable, wire, tower pole, or other equipment of the Commonwealth and its political subdivisions and reconnect the same in a new location;

13. Enter upon lands, waters, and premises for surveys, soundings, borings, examinations, and other activities as may be necessary for the performance of its duties;

14. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants, donations of money or real or personal property for the benefit of the Authority and receive and accept from the Commonwealth or any state, and any municipality, county, or other political subdivision thereof and from any other source, aid or contributions of either money, property, or other things of value to be held, used, and applied for the purposes for which such grants and contributions may be made, provided that any federal moneys so received and accepted shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with the laws of the Commonwealth and any state moneys so received shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;

15. Accept loans from the federal government, the state government, regional authorities, localities,

and private sources, provided that any federal moneys so accepted shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with laws of the Commonwealth and any state moneys so accepted shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;

16. Lease or sell and convey the airspace superadjacent or subadjacent to any rail facility owned by the Authority;

17. Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of the obligations of the Authority;

18. Participate in joint ventures with individuals, domestic or foreign stock and nonstock corporations, limited liability companies, partnerships, limited partnerships, associations, foundations, or other supporting organizations or other entities for providing passenger rail or related services or other activities that the Authority may undertake to the extent that such undertakings assist the Authority in carrying out the purposes and intent of this article;

19. Act as a "responsible public entity" for the purposes of the acquisition, construction, improvement, maintenance, or operation, or any combination thereof, of a "qualifying transportation facility" under the Public-Private Partnership Transportation Act of 1995 (§ 33.2-1800 et seq.); and

20. Undertake all actions necessary and convenient to carry out the powers granted herein.

B. Notwithstanding the provisions of this section, the Authority shall not directly operate any passenger, commuter, or other rail service.

§ 33.2-293. Acquisition, possession, and disposition of rail facilities; eminent domain.

A. The Authority shall have the right to acquire by purchase, lease, or grant rail facilities and other lands, structures, property, both real and personal, tangible and intangible, rights, rights-of-way, franchises, easements, and other interests therein, whether located within or not within the geographic boundaries of the Commonwealth, for the construction, operation, maintenance, and use of rail facilities.

B. The Authority shall have the right to hold and dispose of rail facilities and other lands, structures, property, both real and personal, tangible and intangible, rights, rights-of-way, franchises, easements, and other interests therein in the exercise of its powers and the performance of its duties under this article, including but not limited to the sale, exchange, lease, mortgage, or pledge of such property or interest therein, provided that any such disposition that involves property or interests with a fair market value in excess of $5 million shall require the consent of the Transportation Board.

C. The Commonwealth and any agencies or political subdivisions thereof may provide services, donate, lease, sell, convey, or otherwise transfer, with or without consideration or for minimal consideration, real or personal property and make appropriations to the Authority for the design, acquisition, construction, equipping, maintenance, and operation of rail facilities and may issue bonds in the manner provided in the Public Finance Act (§ 15.2-2600 et seq.) or in its municipal charter for the purpose of providing funds to be appropriated to the Authority; the Authority may agree to assume, or reimburse such a political subdivision for, any indebtedness incurred by such political subdivision with respect to facilities conveyed by it to the Authority.

D. The Authority is authorized to acquire by the exercise of the power of eminent domain any lands, property rights, rights-of-way, franchises, easements, and other property, including public lands, parks, playgrounds, reservations, highways, or parkways, or parts thereof or rights therein, of any person, partnership, association, railroad, public service, public utility, or other corporation, or of any municipality, county, or other political subdivision, deemed necessary or convenient for the construction or the efficient operation of rail facilities or necessary in the restoration, replacement, or relocation of public or private property damaged or destroyed whenever a reasonable price cannot be agreed upon with the governing body of such municipality, county, or other political subdivision as to such property owned by it or whenever the Authority cannot agree on the terms of purchase or settlement with the other owners because of the incapacity of such owners, because of the inability to agree on the compensation to be paid or other terms of settlement or purchase, or because such owners are nonresidents of the Commonwealth, are unknown, or are unable to convey valid title to such property. Such proceedings shall be in accordance with and subject to the provisions of any and all laws of the Commonwealth applicable to the exercise of the power of eminent domain and subject to the provisions of Chapter 2 (§ 25.1-200 et seq.) of Title 25.1. Title to any property condemned by the Authority shall immediately vest in the Authority, and the Authority shall be entitled to the immediate possession of such property upon the deposit with the clerk of the court in which such condemnation proceedings are originated of the total amount of the appraised price of the property and court costs and fees as provided by law, notwithstanding that any of the parties to such proceedings may appeal from any decision in such condemnation proceedings. Whenever the Authority makes such deposit in connection with any condemnation proceedings, the making of such deposit shall not preclude the Authority from appealing any decision rendered in such proceedings. Upon the deposit with the clerk of the court of the appraised price, any person entitled thereto may, upon petition to the court, be paid his or their pro rata share of 100 percent of such appraised price. The acceptance of such payment shall not preclude

such person from appealing any decision rendered in such proceedings. If the appraisal is greater or less than the amount finally determined by the decision in such proceedings or by an appeal, the amount of the increase or decrease shall be paid or refunded to the Authority.

E. The acquisition of any such property by condemnation or by the exercise of the power of eminent domain for the purposes provided herein shall be and is declared to be a public use of such property.

F. For purposes of this section, the terms "appraised price" and "appraisal" mean the value determined by two competent real estate appraisers appointed by the Authority for such purposes.

§ 33.2-294. Issuance of bonds.

A. The Authority may issue bonds from time to time in its discretion, for any of its purposes, including the payment of all or any part of the cost of rail facilities. Notwithstanding the foregoing, any bonds issued to pay for the initial funding of capital expenditures shall be limited to financing capital expenditures submitted for approval by the Transportation Board as set forth in § 33.2-298.

B. The Authority may issue refunding bonds for the purpose of refunding any bonds then outstanding that shall have been issued under the provisions of this article, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date fixed for redemption of such bonds. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the Authority in respect of the same shall be governed by the provisions of this article insofar as the same may be applicable.

C. The bonds of each issue shall be dated such date as may be determined by the Authority; shall bear interest at such rate or rates as shall be fixed by the Authority, or as may be determined in such manner as the Authority may provide, including the determination by agents designated by the Authority under guidelines established by the Authority; shall mature at such time or times not exceeding 40 years from their date or dates, as may be determined by the Authority; and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds.

D. The Authority shall determine the form of the bonds and manner of execution of the bonds and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or outside the Commonwealth. The bonds shall be signed by the chairman or vice-chairman of the Authority or, if so authorized by the Authority, shall bear his facsimile signature and the official seal of the Authority, or, if so authorized by the Authority, a facsimile thereof shall be impressed or imprinted thereon and attested by the secretary or any assistant secretary of the Authority, or, if so authorized by the Authority, with the facsimile signature of such secretary or assistant secretary. Any coupons attached to bonds issued by the Authority shall bear the signature of the chairman or vice-chairman of the Authority or a facsimile thereof. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery, and any bonds may bear the facsimile signature of, or may be signed by, such persons as at the actual time of the execution of such bonds shall be the proper officers to sign such bonds although at the date of such bonds such persons may not have been such officers.

E. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. Bonds issued in registered form may be issued under a system of book-entry for recording the ownership and transfer of ownership of rights to receive payment of principal of, and premium on, if any, and interest on such bonds. The Authority may contract for the services of one or more banks, trust companies, financial institutions, or other entities or persons, within or outside the Commonwealth for the authentication, registration, transfer, exchange, and payment of the bonds, or may provide such services itself. The Authority may sell such bonds in such manner, either at public or private sale, and for such price as it may determine will best effect the purposes of this article.

F. The proceeds of the bonds of each issue shall be used solely for the purposes, and in furtherance of the powers, of the Authority as may be provided in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same.

G. In addition to the above powers, the Authority shall have the authority to issue interim receipts or temporary bonds as provided in § 15.2-2616 and to execute and deliver new bonds in place of bonds mutilated, lost, or destroyed as provided in § 15.2-2621.

H. All expenses incurred in carrying out the provisions of this article shall be payable solely from funds available pursuant to the provisions of this article, and no liability shall be incurred by the Authority hereunder beyond the extent to which moneys shall have been provided or received under the provisions of this article.

I. At the discretion of the Authority, any bonds issued under the provisions of this article may be secured by a trust indenture or agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside the Commonwealth. Such trust indenture or agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received and provide for the mortgage of any rail facilities or property or any part thereof. Such trust indenture or agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants providing for the repossession and sale by the Authority or any trustees under any trust indenture or agreement of any rail facilities, or part thereof, upon any default under the lease or sale of such rail facilities, setting forth the duties of the Authority in relation to the acquisition of property and the planning, development, acquisition, construction, rehabilitation, establishment, improvement, extension, enlargement, maintenance, repair, operation, and insurance of the rail facilities in connection with which such bonds shall have been authorized; the amounts of rates, rents, fees, and other charges to be charged; the collection of such rates, rents, fees, and other charges; the custody, safeguarding, and application of all moneys; and conditions or limitations with respect to the issuance of additional bonds. It is lawful for any national bank with its main office in the Commonwealth or any other state or any bank or trust company incorporated under the laws of the Commonwealth or another state that may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Any such trust indenture or agreement or resolution may set forth the rights of action by bondholders. In addition to the foregoing, any such trust indenture or agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders including, without limitation, provisions for the assignment to a corporate trustee or escrow agent of any rights of the Authority in any project owned by, or leases or sales of any rail facilities made by, the Authority. All expenses incurred in carrying out the provisions of such trust indenture or agreement or resolution or other agreements relating to any rail facilities, including those to which the Authority may not be a party, may be treated as a part of the cost of the operation of the rail facilities.

J. No obligation of the Authority shall be deemed to constitute a debt, or pledge of the faith and credit, of the Commonwealth or of any other political subdivision thereof but shall be payable solely from the revenues and other funds of the Authority pledged thereto, excluding revenues provided from the Commonwealth Rail Fund pursuant to § 33.2-1526.2. All such obligations shall contain on the face thereof a statement to the effect that the Commonwealth, any political subdivision thereof, and the Authority shall not be obligated to pay the same or the interest thereon except from revenues and other funds of the Authority pledged thereto, and that neither the faith and credit nor the taxing power of the Commonwealth or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such obligations.

K. Any bonds or refunding bonds issued under the provisions of this article and any transfer of such bonds shall at all times be free from Commonwealth and local taxation. The interest on the bonds and any refunding bonds or bond anticipation notes shall at all times be exempt from taxation by the Commonwealth and by any political subdivision thereof.

L. Neither the directors of the Board nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

M. Any holder of bonds issued under the provisions of this article or any of the coupons appertaining thereto, and the trustee under any trust indenture or agreement or resolution, except to the extent the rights herein given may be restricted by such trust indenture or agreement or resolution authorizing the issuance of such bonds, may either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under such trust indenture or agreement or resolution, and may enforce and compel the performance of all duties required by this article or by such trust indenture or agreement or resolution to be performed by the Authority or by any officer thereof, including the fixing, charging, and collecting of rates, rentals, fees, and other charges.

N. Provision may be made in the proceedings authorizing refunding bonds for the purchase of the refunded bonds in the open market or pursuant to tenders made from time to time where there is available in the escrow or sinking fund for the payment of the refunded bonds a surplus in an amount to be fixed in such proceedings.

O. 1. The Authority is hereby authorized to apply for, execute, and/or endorse applications submitted by private entities or political subdivisions of the Commonwealth to obtain federal credit assistance for one or more qualifying transportation infrastructure projects or facilities to be developed pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.). Any such application, agreement, and/or endorsement shall not financially obligate the Commonwealth or be construed to implicate the credit of the Commonwealth as security for any such federal credit assistance.

2. The Authority is hereby authorized to pursue or otherwise apply for, and execute, an agreement to obtain financing using a federal credit instrument for project financings otherwise authorized by this article or other acts of assembly.

§ 33.2-295. Deposit and investment of funds.

Bonds issued by the Authority under the provisions of this article are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations of the Commonwealth is now or may hereafter be authorized by law.

§ 33.2-296. Revenues of the Authority.

All moneys received by the Authority pursuant to this article including, without limitation, moneys received from the Commonwealth Rail Fund established pursuant to § 33.2-1526.2, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this article. The resolution authorizing the bonds of any issue or the trust indenture or agreement or resolution securing such bonds shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as a trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this article and such trust indenture or agreement or resolution may provide.

§ 33.2-297. Moneys of Authority.

All moneys of the Authority, from whatever source derived, shall be paid to the treasurer of the Authority. Such moneys shall be deposited in the first instance by the treasurer in one or more banks or trust companies, in one or more special accounts. All banks and trust companies are authorized to give such security for such deposits, if required by the Authority. The moneys in such accounts shall be paid out on the warrant or other order of such person or persons as the Authority may authorize to execute such warrants or orders.

§ 33.2-298. Annual budget.

The Authority shall prepare and submit a detailed annual operating plan and budget to the Transportation Board by February 1 of each fiscal year. The Authority shall also prepare and submit for approval any proposed capital expenditures for the following fiscal year to the Transportation Board by February 1. The Transportation Board shall have until May 30 to approve or deny any capital expenditures, and, in the event the Transportation Board has not approved or denied the Authority's proposed capital expenditures by such deadline, such expenditures shall be deemed approved. The operating plan and budget shall be in a form prescribed by the Transportation Board and shall include information on expenditures, indebtedness, and other information as prescribed by the Transportation Board.

§ 33.2-299. Recordkeeping; audits.

A. The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in a form prescribed by governmental generally accepted accounting principles. Such accounts shall correspond as nearly as possible to the accounts and records for such matters maintained by enterprises.

B. The accounts of the Authority shall be audited annually by a certified public accounting firm selected by the Auditor of Public Accounts with the assistance of the Authority through a process of competitive negotiation. The cost of such audit and review shall be borne by the Authority.

C. The Authority shall submit an annual report to the Governor and the General Assembly on or before November 1 of each year. Such report shall contain the audited financial statements of the Authority for the fiscal year ending the preceding June 30.

D. The Board, the General Assembly, or the Governor may at any time request that the Office of the Inspector General, created pursuant to § 2.2-308, review any area of the Authority's finances or operations.

§ 33.2-299.1. Exemption of Authority from personnel and procurement procedures.

The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this article. The Authority shall develop and adopt rules governing their procurement procedures. However, such rules adopted for the procurement of professional services with a cost expected to exceed $80,000 shall be consistent with the provisions of §§ 2.2-4302.2, 2.2-4303.1 and 2.2-4303.2. The initial rules shall be adopted by the Board no later than six months after the first meeting of the Board.

§ 33.2-299.2. Police powers, Authority rules and regulations.

The Authority is empowered to adopt and enforce reasonable rules and regulations governing any and all activities using Authority property. Such rules and regulations shall have the force and effect of law after publication one time in full in a newspaper of general circulation in the county or city where the affected property is located.

§ 33.2-299.3. Governmental function; exemption from taxation.

The exercise of the powers granted by this article will be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of rail facilities by the Authority and the undertaking of activities in the furtherance of the purposes of the Authority will constitute the performance of the essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any rail facilities or any property acquired or used by the Authority under the provisions of this article or upon the income therefrom, including sales and use taxes on the tangible personal property used in the operations of the Authority. The exemption hereby granted shall not be construed to extend to persons conducting on the premises of any rail facility businesses for which local or state taxes would otherwise be required.

§ 33.2-299.4. Cooperation with federal agencies.

The Authority is empowered to cooperate with, and act as an agent for, the United States or any agency, department, corporation, or instrumentality thereof in the maintenance, development, improvement, and use of rail facilities of the Commonwealth and in any other matter within the purposes, duties, and powers of the Authority.

§ 33.2-299.5. Continuing responsibilities of the Transportation Board and the Department.

The Transportation Board and the Department shall cooperate and assist the Authority in the accomplishment of its purposes as set forth in § 33.2-288.

§ 33.2-299.6. Dissolution of Authority.

Whenever the Board determines that the purposes for which it was created have been substantially fulfilled or are impractical or impossible to accomplish and that all bonds theretofore issued and all other obligations therefore incurred by the Authority have been paid or that cash or a sufficient amount of United States government securities has been deposited for their payment, and upon the approval of the Governor and the General Assembly, the Board may adopt resolutions or ordinances declaring and finding that the Authority should be dissolved and that appropriate articles of dissolution shall be filed with the State Corporation Commission. Upon filing of such articles of dissolution by the Authority, such dissolution shall become effective and the title to all funds and other property owned by the Authority at the time of such filing shall vest in the Department.

§ 33.2-299.7. Exclusions from the Virginia Freedom of Information Act; proprietary records and trade secrets.

Notwithstanding the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), the Authority shall keep confidential trade secrets or confidential proprietary information, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality where if such information were made public, the financial interest of the private person or entity could be adversely affected. In order for trade secrets or proprietary information to be excluded from the provisions of the Virginia Freedom of Information Act, the private person or entity shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reason why protection is necessary.

§ 33.2-299.8. Liberal construction.

Neither this article nor anything herein contained is or shall be construed as a restriction or limitation upon any powers that the Authority might otherwise have under any laws of the Commonwealth, and this article is cumulative to any such powers. This article does and shall be construed to provide a complete, additional, and alternative method for the doing of things authorized thereby and shall be regarded as supplemental and additional to power conferred by other laws. However, except as otherwise explicitly provided herein, the issuance of bonds, notes, and other obligations and refunding bonds under the provisions of this article need not comply with the requirements of any other law of the Commonwealth applicable to the issuance of bonds, notes, and other obligations. No proceedings, notice, or approval shall be required for the issuance of any bonds, notes, and other obligations or any instrument as security therefor, except as is provided in this article.

§ 33.2-358. Allocation of funds among highway construction programs.

A. ~~For the purposes of this section:~~

~~"Bridge reconstruction and rehabilitation" means reconstruction and rehabilitation of those bridges identified by the Department as being functionally obsolete or structurally deficient.~~

~~"High priority projects" means those projects of regional or statewide significance identified by the Board that reduce congestion, increase safety, create jobs, or increase economic development.~~

~~"High-tech infrastructure improvements" means those projects or programs identified by the Board~~

~~that reduce congestion, improve mobility, improve safety, provide up-to-date travel data, or improve emergency response.~~

~~B.~~ The Board shall allocate each year from all funds made available for highway purposes such amount as it deems reasonable and necessary for the maintenance of roads within the Interstate System, the primary state highway system, and the secondary state highway system and for city and town street maintenance payments made pursuant to § 33.2-319 and payments made to counties that have withdrawn or elect to withdraw from the secondary state highway system pursuant to § 33.2-366.

~~C. Until July 1, 2020, after funds are set aside for administrative and general expenses and pursuant to other provisions in this title that provide for the disposition of funds prior to allocation for highway purposes, and after allocation is made pursuant to subsection B, the Board shall allocate an amount determined by the Board not to exceed $500 million in any given year as follows: (i) 25 percent to bridge reconstruction and rehabilitation; (ii) 25 percent to advancing high priority projects statewide; (iii) 25 percent to reconstructing deteriorated Interstate System, primary state highway system, and municipality maintained primary extension pavements determined to have a Combined Condition Index of less than 60; (iv) 15 percent to projects undertaken pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.); (v) five percent to paving or improving unpaved highways carrying more than 50 vehicles per day; and (vi) five percent to the Innovation and Technology Transportation Fund established pursuant to § 33.2-1531 for high-tech infrastructure improvements, provided that at the discretion of the Board such percentages of funds may be adjusted in any given year to meet project cash flow needs or when funds cannot be expended due to legal, environmental, or other project management considerations. After such allocations are made, the Board may allocate each year up to 10 percent of the funds remaining for highway purposes for the undertaking and financing of rail projects that in the Board's determination will result in mitigation of highway congestion. After the foregoing allocations have been made, the Board shall allocate the remaining funds available for highway purposes, exclusive of federal funds for the Interstate System, pursuant to § 33.2-360 and any funds not allocated to a project in the Six-Year Improvement Program as follows:

50 percent for the high-priority projects program established pursuant to § 33.2-370 and 50 percent for the highway construction district grant programs established pursuant to § 33.2-371.

D. For funds allocated for fiscal years beginning on and after July 1, 2020, after~~ *B. After* funds are set aside for administrative and general expenses and pursuant to other provisions in this title that provide for the disposition of funds prior to allocation for ~~highway purposes~~ *construction programs*, and after allocation is made pursuant to subsection ~~B~~ *A*, the Board shall allocate all remaining funds, including funds apportioned pursuant to 23 U.S.C. § 104*, or any successor programs*, as follows:

1. ~~Forty-five~~ *Thirty* percent of the remaining funds to state of good repair purposes as set forth in § 33.2-369;

2. ~~Twenty-seven and one-half~~ *Twenty* percent of the remaining funds to the high-priority projects program established pursuant to § 33.2-370; and

3. ~~Twenty-seven and one-half~~ *Twenty* percent of the remaining funds to the highway construction district grant programs established pursuant to ~~§ 33.2-371~~ *§ 33.2-372;*

4. Twenty percent of the remaining funds to the Interstate Operations and Enhancement Program established pursuant to § 33.2-372; and

5. Ten percent of the remaining funds to the Virginia Highway Safety Improvement Program established pursuant to § 33.2-373.

~~E. The funds allocated in subsection C or D shall not include any federal funds and related state match for federal funds with restrictions regarding the construction of general capacity expansion of roadways, or federal funds not under the control of the Board. Such exclusion shall not include restrictions on the location of projects to specific road classifications~~ *C. The funds allocated in subsection B shall not include the following funds: Congestion Mitigation Air Quality funds apportioned to the state pursuant to 23 U.S.C. § 104(b)(4), or any successor program, and state matching funds; Surface Transportation Block Grant set-aside for Transportation Alternatives pursuant to 23 U.S.C. § 213, or any successor program, and any state matching funds; and funds received pursuant to federal programs established by the federal government after June 30, 2020, with specific rules that include major restrictions on the types of projects that may be funded, excluding restrictions on the location of projects with regard to highway functional or administrative classification or population, provided such funds are under the control of the Board.*

~~F.~~ *D.* In addition, the Board, from funds appropriated for such purpose in the general appropriation act, shall allocate additional funds to the Cities of Newport News, Norfolk, and Portsmouth and the County of Warren in such manner and apportion such funds among such localities as the Board may determine, unless otherwise provided in the general appropriation act. The localities shall use such funds to address highway maintenance and repair needs created by or associated with port operations in those localities.

~~G.~~ *E.* Notwithstanding the provisions of this section, the General Assembly may, through the general appropriation act, permit the Governor to increase the amounts to be allocated to highway maintenance, highway construction, either or both.

§ 33.2-365. Allocation of proceeds of Commonwealth of Virginia Transportation Capital Projects Revenue Bonds.

The Board shall allocate, use, and distribute the proceeds of any bonds it is authorized to issue on or after July 1, 2007, pursuant to subdivision 10 of § 33.2-1701, as follows:

1. A minimum of 20 percent of the bond proceeds shall be used for transit capital as further described in ~~subdivision A 4 c of § 58.1-638~~ *§ 33.2-1526.1:1*.

2. A minimum of 4.3 percent of the bond proceeds shall be used for rail capital consistent with the provisions of §§ 33.2-1601 and 33.2-1602.

3. The remaining amount of bond proceeds shall be used for paying the costs incurred or to be incurred for construction of transportation projects with such bond proceeds used or allocated as follows: (i) first, to match federal highway funds projected to be made available and allocated to highway and public transportation capital projects to the extent determined by the Board, for purposes of allowing additional state construction funds to be allocated pursuant to § 33.2-358; (ii) second, to provide any required funding to fulfill the Commonwealth's allocation of equivalent revenue sharing matching funds pursuant to § 33.2-357 to the extent determined by the Board; and (iii) third, to pay or fund the costs of statewide or regional projects throughout the Commonwealth. Costs incurred or to be incurred for construction or funding of these transportation projects shall include environmental and engineering studies; rights-of-way acquisition; improvements to all modes of transportation; acquisition, construction, and related improvements; and any financing costs or other financing expenses relating to such bonds. Such costs may include the payment of interest on such bonds for a period during construction and not exceeding one year after completion of construction of the relevant project.

4. The total amount of bonds authorized shall be used for purposes of applying the percentages in subdivisions 1, 2, and 3.

§ 33.2-372. Interstate Operations and Enhancement Program.

A. The Board shall establish an Interstate Operations and Enhancement Program (the Program) to improve the safety, reliability, and travel flow along interstate highway corridors in the Commonwealth.

B. The Board may use funds in the program to address identified needs in the Statewide Transportation Plan pursuant to § 33.2-353 or an interstate corridor plan approved by the Board through (i) operational and transportation demand management strategies and (ii) other transportation improvements, strategies, or services.

C. The Board, with the assistance of the Office of Intermodal Planning and Investment, shall establish a process to evaluate and prioritize potential strategies and improvements, with priority given first to operational and transportation demand management strategies that improve reliability and safety of travel.

D. The Board may not use funds in this program to supplant existing levels of support as of July 1, 2019, for existing operational and transportation demand management strategies.

E. The Board shall distribute to the Interstate 81 Corridor Improvement Fund established pursuant to 33.2-3601 an amount equal to the revenues provided to the program multiplied by the ratio of the vehicle miles traveled on Interstate 81 by vehicles classified as Class 6 or higher by the Federal Highway Administration to the total vehicle miles traveled on all interstate highways in the Commonwealth by vehicles classified as Class 6 or higher.

F. The Board shall distribute to the Northern Virginia Transportation Authority Fund established pursuant to § 33.2-2509 an amount equal to the revenues provided to the program multiplied by the ratio of vehicle miles traveled on interstate highways in Planning District 8 by vehicles classified as Class 6 or higher by the Federal Highway Administration to the total vehicles miles traveled on all interstate highways in the Commonwealth by vehicles classified as Class 6 or higher.

G. For any interstate highway with more than 10 percent of total vehicle miles traveled by vehicles classified as Class 6 or higher by the Federal Highway Administration, the Board shall ensure that the total long-term expenditure for each interstate highway shall be approximately equal to the proportion of the total revenue deposited in the Fund attributable to each interstate highway based on such interstate highway's proportional share of interstate vehicle miles traveled by vehicles classified as Class 6 or higher.

H. Starting in 2020, by December 15 of each year, the Board shall report to the Governor and the General Assembly on the status of the Interstate Operations and Enhancement Program. The report shall include, at a minimum, the following:

1. The allocation of revenues for the Program;

2. The current and projected performance of each interstate highway corridor; and

3. The anticipated benefits of funded strategies, capital improvements, and services by the interstate highway.

§ 33.2-373. Virginia Highway Safety Improvement Program.

A. The Board shall establish a Highway Safety Improvement Program (the Program) to reduce motorized and nonmotorized fatalities and severe injuries on highways in the Commonwealth, whether such highways are state or locally maintained. The Board shall use funds set aside pursuant to § 33.2-358 for this Program.

B. Beginning in fiscal year 2024, the Board shall allocate the funds in accordance with its adopted investment strategy pursuant to subsection C as follows:

1. At least 54 percent for infrastructure projects that address a hazardous road location or feature and address an identified highway safety problem;

2. At least 29 percent for strategies and activities to address behavioral causes of crashes that result in fatalities and severe injuries; and

3. The remaining amount for eligible purposes under this section pursuant to the investment strategy adopted pursuant to subsection C.

C. The Board shall adopt an investment strategy to guide the investments of this Program. The strategy shall cover a period of at least five years and seek to achieve a significant reduction in the anticipated number of fatalities and severe injuries over the covered period, and shall give priority to projects, strategies, and activities based on the expected reduction in fatalities and severe injuries relative to cost, including improvements that are widely implemented based on a high-risk roadway feature that is correlated with a particular crash type, rather than crash frequency.

§ 33.2-374. Robert O. Norris Bridge and Statewide Special Structure Program.

A. For purposes of this section, "special structure" means very large, indispensable, and unique bridges and tunnels identified by the Commissioner, and approved by the Commonwealth Transportation Board.

B. The General Assembly declares it to be in the public interest that the maintenance, rehabilitation, and replacement of special structures in the Commonwealth occur timely as to provide and protect a safe and efficient highway system.

C. The Board shall establish a program for the maintenance, rehabilitation, and replacement of special structures in the Commonwealth. With the assistance of the Department of Transportation, the Board shall develop and maintain a plan for the maintenance, rehabilitation and replacement of special structures in the Commonwealth. The plan shall cover at a minimum a 30-year period and shall be updated biennially no later than November 1 of each even-numbered year.

D. The Board shall use the funds allocated in §§ 33.2-1524 and 33.2-1530 to the Robert O. Norris Bridge and Statewide Special Structure Fund pursuant to § 33.2-1532 for maintenance, reconstruction, and replacement of special structures to implement the plan developed pursuant to subsection C.

§ 33.2-1502. Creation of the Virginia Transportation Infrastructure Bank.

A. There is hereby created in the state treasury a special nonreverting, revolving loan fund, known as the Virginia Transportation Infrastructure Bank, that is a subfund of the Transportation Trust Fund established pursuant to § ~~33.2-1524~~ *33.2-1524.1*. The Bank shall be established on the books of the Comptroller. The Bank shall be capitalized with (i) ~~two-thirds of all interest, dividends, and appreciation that may accrue to the Transportation Trust Fund and the Highway Maintenance and Operating Fund~~ *funds pursuant to subdivision B 3 of § 33.2-1524* and (ii) moneys appropriated by the General Assembly and credited to the Bank. Disbursements from the Bank shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner of Highways or his designee. Payments on project obligations and interest earned on the moneys in the Bank shall be credited to the Bank. Any moneys remaining in the Bank, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Bank. Notwithstanding anything to the contrary set forth in this article or in the management agreement, the Board will have the right to determine the projects for which loans or other financial assistance may be provided by the Bank. Moneys in the Bank shall be used solely for the purposes enumerated in subsection C.

B. The Board, the manager, and the Secretary of Finance are authorized to enter into a management agreement which may include provisions (i) setting forth the terms and conditions under which the manager will advise the Board on the financial propriety of providing particular loans or other financial assistance; (ii) setting forth the terms and conditions under which the substantive requirements of subsections C, D, and E and § 33.2-1505 will be applied and administered; and (iii) authorizing the manager to request the Board to disburse from the moneys in the Bank the reasonable costs and expenses the manager may incur in the management and administration of the Bank and a reasonable fee to be approved by the Board for the manager's management and administrative services.

C. 1. Moneys deposited in the Bank shall be used for the purpose of making loans and other financial assistance to finance projects.

2. Each project obligation shall be payable, in whole or in part, from reliable repayment sources pledged for such purpose.

3. The interest rate on a project obligation shall be determined by reference to the current market rates for comparable obligations, the nature of the project and the financing structure therefor, and the creditworthiness of the eligible borrower and other project sponsors.

4. The repayment schedule for each project obligation shall require (i) the amortization of principal beginning within five years following the later of substantial project completion or the date of incurrence of the project obligation and (ii) a final maturity date of not more than 35 years following substantial project completion.

D. The pledge of reliable repayment sources and other property securing any project obligation may be subordinate to the pledge securing any other senior debt obligations incurred to finance the project.

E. Notwithstanding subdivision C 4, the manager may at any time following substantial project completion defer payments on a project obligation if the project is unable to generate sufficient revenues to pay the scheduled payments.

F. No loan or other financial assistance may be provided or committed to be provided by the Bank in a manner that would cause such loan or other financial assistance to be tax-supported debt within the meaning of § 2.2-2713 or be deemed to constitute a debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth but shall be payable solely from legally available moneys held by the Bank.

G. Neither the Bank nor the manager is authorized or empowered to be or to constitute (i) a bank or trust company within the jurisdiction or under the control of the Commonwealth or an agency thereof or the Comptroller of Currency of the U.S. Treasury Department or (ii) a bank, banker, or dealer in securities within the meaning of, or subject to the provisions of, any securities, securities exchange, or securities dealers law of the United States or of the Commonwealth.

H. The Board or the manager may establish or direct the establishment of federal and state accounts or subaccounts as may be necessary to meet any applicable federal law requirements or desirable for the efficient administration of the Bank in accordance with this article.

§ 33.2-1524. Commonwealth Transportation Fund.

A. There is hereby created in the Department of the Treasury a special nonreverting fund to be known as the *Commonwealth* Transportation ~~Trust~~ Fund~~,~~ ~~consisting~~ ~~of~~ *(the Fund). The Fund shall be established on the books of the Comptroller. Any moneys remaining in the Fund at the end of the year shall not revert to the general fund but shall remain in the Fund. The Fund shall consist of all funds appropriated to the Fund and all funds dedicated to the Fund pursuant to law, including*:

1. ~~Funds remaining for highway construction purposes among the highway systems pursuant to § 33.2-358.~~ *Revenues pursuant to §§ 58.1-2289 and 58.1-2701;*

2. ~~The additional revenues generated by enactments of Chapters 11, 12, and 15 of the 1986 Acts of Assembly, Special Session I, and designated for this fund.~~ *Revenues pursuant to subsections A and G of § 58.1-638 and § 58.1-638.3;*

3. Tolls and other revenues derived from the projects financed or refinanced pursuant to this title that are payable into the state treasury and tolls and other revenues derived from other transportation projects, which may include upon the request of the applicable appointed local governing body, as soon as their obligations have been satisfied, such tolls and revenue derived for transportation projects pursuant to the Chesapeake Bay Bridge and Tunnel District and Commission established in Chapter 22 (§ 33.2-2200 et seq.) and to the Richmond Metropolitan Transportation Authority established in Chapter 29 (§ 33.2-2900 et seq.), or if the appointed local governing body requests refunding or advanced refunding by the Board and such refunding or advanced refunding is approved by the General Assembly. Such funds shall be held in separate subaccounts of the *Commonwealth* Transportation ~~Trust~~ Fund to the extent required by law or the Board~~.~~*;*

4. *Revenues pursuant to § 58.1-2425;*

5. Revenues pursuant to subdivisions A 1 through A 12 of § 46.2-694, 46.2-694.1, 46.2-697, and 46.2-697.2, except where provided elsewhere in such sections and excluding revenues deposited into a special fund for the Department of Motor Vehicles pursuant to § 46.2-686;

6. Revenues pursuant to § 58.1-1741;

7. Revenues pursuant to § 58.1-815.4;

8. Revenues from § 58.1-2249;

9. Such other funds as may be appropriated by the General Assembly from time to time and designated for the *Commonwealth* Transportation ~~Trust~~ Fund~~.~~*;*

~~5.~~ *10.* All interest, dividends, and appreciation that may accrue to the Transportation Trust Fund *established pursuant to § 33.2-1524.1* and the Highway Maintenance and Operating Fund~~.~~ *established pursuant to § 33.2-1530;*

~~6.~~ *11.* All amounts required by contract to be paid over to the *Commonwealth* Transportation ~~Trust~~ Fund~~.~~*;*

~~7.~~ *12.* Concession payments paid to the Commonwealth by a private entity pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.)*; and*

13. Revenues pursuant to § 58.1-2531.

B. Funds in the Fund shall be distributed as follows:

1. Of the funds from subdivisions A 1, 2, 4 through 8, and 13: (i) 51 percent to the Highway Maintenance and Operating Fund established pursuant to § 33.2-1530 and (ii) 49 percent to the Transportation Trust Fund established pursuant to § 33.2- 1524.1;

2. The funds from subdivision A 3 and 12 shall be deposited into the Transportation Trust Fund established pursuant to § 33.2- 1524.1;

3. Of the funds from subdivision A 10: (i) two-thirds shall be deposited in the Virginia Transportation Infrastructure Bank established pursuant to Article 1 (§ 33.2-1500 et seq.) and (ii) one-third shall be deposited into the Transportation Partnership Opportunity Fund established pursuant to § 33.2-1529.1.

C. Prior to the distribution of funds pursuant to subsection B, (i) $40 million annually shall be deposited into the Route 58 Corridor Development Fund pursuant to § 33.2-2300, (ii) $20 million annually shall be deposited into the Northern Virginia Transportation District Fund pursuant to § 33.2-2400, and (iii) $80 million annually shall be deposited into the Robert O. Norris Bridge and Statewide Special Structures Fund pursuant to § 33.2-1532, though the amount deposited shall be adjusted annually based on the change in the consumer price index for all urban consumers.

§ 33.2-1524.1. Transportation Trust Fund.

There is hereby created in the Department of Treasury a special nonreverting fund to be known as the Transportation Trust Fund, consisting of funds distributed from the Commonwealth Transportation Fund pursuant to § 33.2-1524. The revenues deposited pursuant to subdivision B 1 of § 33.2-1524 shall be distributed as follows:

1. For construction programs pursuant to § 33.2-358, 53 percent;

2. To the Commonwealth Mass Transit Fund established pursuant to § 33.2-1526, 23 percent;

3. To the Commonwealth Rail Fund established pursuant to § 33.2-1526.2, 7.5 percent;

4. To the Commonwealth Port Fund established pursuant to § 33.2-1526.3, 2.5 percent;

5. To the Commonwealth Aviation Fund established pursuant to § 33.2-1526.4, 1.5 percent;

6. To the Commonwealth Space Flight Fund established pursuant to § 33.2-1526.5, one percent;

7. To the Priority Transportation Fund established pursuant to § 33.2-1527, 10.5 percent; and

8. To a special fund within the Commonwealth Transportation Fund in the state treasury, one percent to be used to meet the necessary expenses of the Department of Motor Vehicles.

§ 33.2-1526. Commonwealth Mass Transit Fund.

~~Of the funds becoming part of the Transportation Trust Fund pursuant to subdivision 2 of § 33.2-1524, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund as established in subdivision A 2 of § 58.1-638; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund as established in subdivision A 3 of § 58.1-638; and an aggregate of 14.7 percent shall be set aside as the Commonwealth Mass Transit Fund as established in subdivision A 4 of § 58.1-638. Beginning with the Commonwealth's 2012-2013 fiscal year through the Commonwealth's 2023-2024 fiscal year, each fiscal year from the funds becoming part of the Transportation Trust Fund pursuant to subdivision 2 of § 33.2-1524 the Comptroller shall transfer $15.8 million to the Commonwealth Space Flight Fund as established in subdivision A 3a of § 58.1-638. The remaining funds deposited into or held in the Transportation Trust Fund pursuant to subdivision 2 of § 33.2-1524, together with funds deposited pursuant to subdivisions 1 and 4 of § 33.2-1524, shall be expended for capital improvements, including construction, reconstruction, maintenance, and improvements of highways according to the provisions of subsection C or D of § 33.2-358 or to secure bonds issued for such purposes, as provided by the Board and the General Assembly.~~

A. There is hereby created in the State Treasury a special nonreverting fund that shall be a part of the Transportation Trust Fund and shall be known as the Commonwealth Mass Transit Fund (the Fund). The Fund shall be established on the books of the Comptroller and any funds remaining in the Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall be credited to the Fund.

B. The amounts allocated to the Fund pursuant to § 33.2-1526.1 shall be used to support the operating, capital, and administrative costs of public transportation at a state share determined by the Board, and such amounts may be used to support the capital project costs of public transportation and ridesharing equipment, facilities, and associated costs at a state share determined by the Board. Capital costs may include debt service payments on local or agency transit bonds.

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

A. All funds deposited pursuant to ~~§§ 58.1-638, 58.1-638.3, 58.1-815.4, and 58.1-2289~~ *§ 33.2-1524.1* into the Commonwealth Mass Transit Fund (the Fund), established pursuant to ~~subdivision A 4 of § 58.1-638~~ *§ 33.2-1526*, shall be allocated as set forth in this section.

B. *Prior to the distribution of funds in subsection D, beginning in fiscal year 2022, $50 million shall*

be allocated to the Washington Metropolitan Area Transit Authority as matching funds to federal and other funds provided by the Federal Transit Administration, the District of Columbia, and the State of Maryland. However, such funds shall only be provided if the District of Columbia and the State of Maryland each provide at least $50 million, and the Federal Transit Administration provides $150 million to the Washington Metropolitan Area Transit Authority.

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

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

1. ~~Thirty-one~~ *Twenty-seven* percent of the funds shall be allocated to support operating costs of transit providers and shall be distributed by the Board on the basis of service delivery factors, based on effectiveness and efficiency as established by the Board. Such measures and their relative weight shall be evaluated every three years and, if redefined by the Board, shall be published and made available for public comment at least one year in advance of being applied. The Washington Metropolitan Area Transit Authority (WMATA) shall not be eligible for an allocation of funds pursuant to this subdivision.

2. ~~Twelve and one-half~~ *Eighteen* percent of the funds shall be allocated for capital purposes and distributed utilizing the transit capital prioritization process established by the Board pursuant to § 33.2-214.4. The Washington Metropolitan Area Transit Authority shall not be eligible for an allocation of funds pursuant to this subdivision.

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

4. *Six percent of the funds shall be allocated by the Board for the Transit Ridership Incentive Program established pursuant to § 33.2-1526.1:2.*

~~Three~~ *5. Two* percent of the funds shall be allocated for special programs, including ridesharing, transportation demand management programs, experimental transit, public transportation promotion, operation studies, and technical assistance, and may be allocated to any local governing body, planning district commission, transportation district commission, or public transit corporation. Remaining funds may also be used directly by the Department of Rail and Public Transportation to (i) finance a program administered by the Department of Rail and Public Transportation designed to promote the use of public transportation and ridesharing throughout the Commonwealth or (ii) finance up to 80 percent of the cost of development and implementation of projects with a purpose of enhancing the provision and use of public transportation services.

~~D.~~ *E.* The Board may consider the transfer of funds from subdivisions ~~C~~ *D* 2 and ~~4~~ *5* to subdivision ~~C~~ *D* 1 in times of statewide economic distress or statewide special need.

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

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

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

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

2. The remaining funds shall be apportioned to reflect WMATA's allocation formulas by using the related WMATA-allocated subsidies and relative shares of local transit subsidies. Capital costs shall include 20 percent of annual local bus capital expenses. Local transit subsidies and local capital costs of Loudoun County shall not be included. Hold harmless protections and obligations for NVTC's jurisdictions agreed to by NVTC on November 5, 1998, shall remain in effect.

~~H.~~ *I.* Appropriations from the Fund are intended to provide a stable and reliable source of revenue,

as defined by P.L. 96-184.

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

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

~~K.~~ *L.* The Board shall withhold 20 percent of the funds available pursuant to subdivision ~~C~~ *D* 3 if (i) any alternate directors participate or take action at an official WMATA Board meeting or committee meeting as Board directors for a WMATA compact member when both directors appointed by that same WMATA compact member are present at the WMATA Board meeting or committee meeting or (ii) the WMATA Board of Directors has not adopted bylaws that would prohibit such participation by alternate directors.

§ 33.2-1526.1:1. Commonwealth Transit Capital Fund.

A. 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 a subaccount of the Commonwealth Mass Transit Fund.

B. 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.

C. 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 subsection. 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.

D. The Commonwealth Transit Capital Fund shall not be allocated without requiring a local match from the recipient.

§ 33.2-1526.1:2. Transit Ridership Incentive Program.

A. The Board shall establish a Transit Ridership Incentive Program to promote improved transit service in urbanized areas of the Commonwealth with a population in excess of 100,000 and to reduce barriers to transit use for low-income individuals.

B. The goal of the program shall be to encourage the identification and establishment of routes of regional significance, the development and implementation of a regional subsidy allocation model, implementation of integrated fare collection, establishment of bus-only lanes on routes of regional significance, and other actions and service determined by the Board to improve transit service.

C. The Board shall establish guidelines for the implementation this program and review such guidelines, at a minimum, every five years. The funds in the Program shall be awarded such that on a five-year rolling average, the amount of funds awarded to each urbanized area shall be equal to a ratio of the population within the Commonwealth of such urbanized area compared to the total population within in the Commonwealth of all eligible urbanized areas. The Board may through an affirmative vote of a majority of the members vote to waive this requirement for a period not to exceed two years when they find there is a need that justifies such waiver.

D. To be eligible for funds available in this program, the transit agency shall either (i) be operated by a transportation district or jointly by two or more transportation districts established pursuant to Chapter 19 (§ 33.2-1900 et seq.) or (ii) be operated or funded by a local government that is a member of a transportation district established pursuant to Chapter 19.

E. Notwithstanding the provisions of this section, the Board shall use an amount not to exceed 25 percent of the funds available to support the establishment of programs to reduce the impact of fares on low-income individuals, including reduced-fare programs and elimination of fares. The restrictions in

subsection A shall not apply to funds used pursuant to this subsection.

F. The Board shall report annually to the Governor and the General Assembly on the projects and services funded by the Program. The report shall, at a minimum, include an analysis of the performance of the funded projects, the performance of the identified routes of regional significance, transit ridership, efforts funded pursuant to subsection E, and any other information the Board determines to be appropriate.

§ 33.2-1526.2. Commonwealth Rail Fund.

A. The General Assembly declares it to be in the public interest that developing and continuing intercity passenger and freight rail operations and the development of rail infrastructure, rolling stock, and support facilities to support intercity passenger and freight rail service are important elements of a balanced transportation system in the Commonwealth and further declares it to be in the public interest that the retention, maintenance, improvement, and development of intercity passenger and freight 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 established in the state treasury a special nonreverting fund to be known as the Commonwealth Rail Fund (the Fund). The Fund shall be established on the books of the Comptroller and shall consist of funds dedicated pursuant to subsection A 3 of § 33.2-1524.1. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely as provided in this section.

C. The amounts dedicated to the Fund pursuant to § 33.2-1524.1 shall be deposited monthly by the Comptroller into the Fund. Thereafter, 91.5 percent shall be distributed to the Virginia Passenger Rail Authority as soon as practicable for use in accordance with the provisions of Article 6 (§ 33.2-290 et seq.) of Chapter 2. The remaining 8.5 percent shall remain in the Fund for the Department of Rail and Public Transportation for planning purposes and for grants for rail projects not administered by the Virginia Passenger Rail Authority. The Department may use up to $4 million for the purposes of the Shortline Railway Preservation and Development Fund pursuant to § 33.2-1602.

§ 33.2-1526.3. Commonwealth Port 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 shall be known as the Commonwealth Port Fund (the Fund).

B. The 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.

C. The amounts allocated pursuant to this section shall be allocated by the 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.

D. 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.

§ 33.2-1526.4. Commonwealth Aviation Fund.

A. There is hereby created in the Department of the Treasury a special nonreverting fund that shall be part of the Transportation Trust Fund and shall be known as the Commonwealth Aviation Fund (the Fund). The Fund shall be established on the books of the Comptroller and any funds remaining in the 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 shall be allocated by the Board to the Virginia Aviation Board, to be allocated by the Virginia Aviation Board to any Virginia airport that 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:

B. Any new funds in excess of $12.1 million that are available for allocation by the Virginia Aviation Board 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 1. Except for adjustments due to changes in enplaned passengers, no air carrier airport sponsor, excluding MWAA, shall receive less funds identified under subdivision 1 than it received in fiscal year 1994-1995.

Of the remaining amount:

1. Forty percent of the funds shall be allocated to air carrier airports that are not airports owned or leased by MWAA, based upon the percentage of enplanements for each airport to total enplanements at all air carrier airports that are not airports owned or leased by MWAA. No air carrier airport sponsor

shall receive less than $50,000 nor more than $2 million per year from this provision.

2. Sixty percent of the funds shall be allocated as follows:

a. For the first six months of each fiscal year, the funds shall be allocated as follows:

(1) Forty percent of the funds shall be allocated by the Virginia Aviation Board for air carrier and reliever airports on a discretionary basis, except airports owned or leased by MWAA; and

(2) Twenty percent of the funds shall be allocated by the Virginia Aviation Board for general aviation airports on a discretionary basis; and

b. For the second six months of each fiscal year, all remaining funds shall be allocated by the Virginia Aviation Board for all eligible airports on a discretionary basis, except airports owned or leased by MWAA.

§ 33.2-1526.5. Commonwealth Space Flight Fund.

A. There is hereby created in the Department of the Treasury a special nonreverting fund that shall be a part of the Commonwealth Transportation Fund and that shall be known as the Commonwealth Space Flight Fund (the Fund). The 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.

B. The amounts allocated to the Commonwealth Space Flight Fund pursuant to § 33.2-1524 shall be allocated by the 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.

C. 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.

§ 33.2-1527. Priority Transportation Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Priority Transportation Fund~~, hereafter referred to as "~~ *(*the Fund*).*~~"~~ The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. All funds as may be designated in the appropriation act for deposit to the Fund shall be paid into the state treasury and credited to the Fund. Such funds shall include:

1. Beginning with the fiscal year ending June 30, 2000, and for fiscal years thereafter, all revenues that exceed the official forecast, pursuant to § 2.2-1503, for (i) the Highway Maintenance and Operating Fund established in § 33.2-1530 and (ii) the allocation to highway and mass transit improvement projects as set forth in § ~~33.2-1526~~ *33.2-1524.1*, but not including any amounts that are allocated to the Commonwealth Port Fund and the Commonwealth Airport Fund under such section;

2. All revenues deposited into the Fund pursuant to ~~§ 58.1-2531~~ *subdivision A 7 of § 33.2-1524.1*;

3. All revenues deposited into the Fund pursuant to ~~subsection E of § 58.1-2289~~ *§ 33.2-226*; and

4. Any other such funds as may be transferred, allocated, or appropriated.

All moneys in the Fund shall first be used for debt service payments on bonds or obligations for which the Fund is expressly required for making debt service payments, to the extent needed. The Fund shall be considered a part of the Transportation Trust Fund. 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 enumerated in subsection B. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller.

B. The Board shall use the Fund to facilitate the financing of priority transportation projects throughout the Commonwealth. The Board may use the Fund by (i) expending amounts therein on such projects directly; (ii) payment to any authority, locality, commission, or other entity for the purpose of paying the costs thereof; or (iii) using such amounts to support, secure, or leverage financing for such projects. No expenditures from or other use of amounts in the Fund shall be considered in allocating highway maintenance and construction funds under § 33.2-358 or apportioning Transportation Trust Fund funds under § 58.1-638 but shall be in addition thereto. The Board shall use the Fund to facilitate the financing of priority transportation projects as designated by the General Assembly, provided that at the discretion of the Board funds allocated to projects within a transportation district may be allocated among projects within the same transportation district as needed to meet construction cash-flow needs.

C. Notwithstanding any other provision of this section, beginning July 1, 2007, no bonds, obligations, or other evidences of debt (the bonds) that expressly require as a source for debt service payments or for the repayment of such bonds the revenues of the Fund shall be issued or entered into, unless at the time of the issuance the revenues then in the Fund or reasonably anticipated to be deposited into the Fund pursuant to the law then in effect are by themselves sufficient to make 100 percent of the contractually required debt service payments on all such bonds, including any interest related thereto and the retirement of such bonds.

§ 33.2-1528. Concession Payments Account.

A. Concession payments to the Commonwealth deposited into the Transportation Trust Fund pursuant to subdivision ~~7~~ *B 2* of § 33.2-1524 from qualifying transportation facilities developed and/or operated pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) shall be held in a separate subaccount to be designated the Concession Payments Account, (the Account) together with all interest, dividends, and appreciation that accrue to the Account and that are not otherwise specifically directed by law or reserved by the Board for other purposes allowed by law.

B. The Board may make allocations from the Account upon such terms and subject to such conditions as the Board deems appropriate to:

1. Pay or finance all or part of the costs of programs or projects, including the costs of planning, operation, maintenance, and improvements incurred in connection with the acquisition and construction of projects, provided that allocations from the Account shall be limited to programs and projects that are reasonably related to or benefit the users of the qualifying transportation facility that was the subject of a concession pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.). The priorities of metropolitan planning organizations, planning district commissions, local governments, and transportation corridors shall be considered by the Board in making project allocations from moneys in the Account.

2. Repay funds from the Toll Facilities Revolving Account or the Transportation Partnership Opportunity Fund.

3. Pay the Board's reasonable costs and expenses incurred in the administration and management of the Account.

C. Concession payments to the Commonwealth for a qualifying transportation facility located within the boundaries of a rapid rail project for which a federal Record of Decision has been issued shall be held in a subaccount separate from the Concession Payments Account together with all interest, dividends, and appreciation that accrue to the subaccount. The Board may make allocations from the subaccount as the Board deems appropriate to:

1. Pay or finance all or part of the costs of planning, design, land acquisition, and improvements incurred in connection with the construction of such rapid rail project consistent with the issued federal Record of Decision, as may be revised; and

2. Upon determination by the Board that sufficient funds are or will be available to meet the schedule for construction of such rapid rail project, pay or finance all or part of the costs of planning, design, land acquisition, and improvements incurred in connection with other highway and public transportation projects within the corridor of the rapid rail project or within the boundaries of the qualifying transportation facility. In the case of highway projects, the Board shall follow an approval process generally in accordance with subsection B of § 33.2-208.

D. The provisions of this section shall be liberally construed to the end that its beneficial purposes may be effectuated. Insofar as this provision is inconsistent with the provisions of any other general, special, or local law, this provision shall be controlling.

§ 33.2-1529.1. Transportation Partnership Opportunity Fund.

A. There is hereby created the Transportation Partnership Opportunity Fund (the Fund) to be used by the Governor to provide funds to address the transportation aspects of economic development opportunities. The Fund shall consist of (i) ~~one-third of all interest, dividends, and appreciation that may accrue to the Transportation Trust Fund and the Highway Maintenance and Operating Fund~~ *funds pursuant to subdivision B 3 of § 33.2-1524* and (ii) any funds appropriated to it by the general appropriation act and revenue from any other source, public or private. The Fund shall be established on the books of the Comptroller, and any funds remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. All interest and dividends that are earned on the Fund shall be credited to the Fund. The Governor shall report to the Chairmen of the House Committees on Appropriations, Finance, and Transportation and the Senate Committees on Finance and Transportation as funds are awarded in accordance with this section.

B. The Fund shall be a subfund of the Transportation Trust Fund. Provisions of this title and Title 58.1 relating to the allocations or disbursements of proceeds of the Commonwealth Transportation Fund, the Transportation Trust Fund, or the Highway Maintenance and Operating Fund shall not apply to the Fund.

C. Funds shall be awarded from the Fund by the Governor as grants, revolving loans, or other financing tools and equity contributions to an agency or political subdivision of the Commonwealth. Loans shall be approved by the Governor and made in accordance with procedures established by the Board and approved by the Comptroller. Loans shall be interest-free and shall be repaid to the Fund. The Governor may establish the duration of any loan, but such term shall not exceed seven years. The Department shall be responsible for monitoring repayment of such loans and reporting the receivables to the Comptroller as required.

D. Grants or revolving loans may be used for transportation capacity development on and off site;

road, rail, mass transit, or other transportation access costs beyond the funding capability of existing programs; studies of transportation projects, including environmental analysis, geotechnical assessment, survey, design and engineering, advance right-of-way acquisition, traffic analysis, toll sensitivity studies, and financial analysis; or anything else permitted by law. Funds may be used for any transportation project or any transportation facility. Any transportation infrastructure completed with moneys from the Fund shall not become private property, and the results of any studies or analysis completed as a result of a grant or loan from the Fund shall be property of the Commonwealth.

E. The Board, in consultation with the Secretary of Transportation and the Secretary of Commerce and Trade, shall develop guidelines and criteria that shall be used in awarding grants or making loans from the Fund; however, no grant shall exceed $5 million and no loan shall exceed $30 million. No grant or loan shall be awarded until the Governor has provided copies of the guidelines and criteria to the Chairmen of the House Committees on Appropriations, Finance, and Transportation and the Senate Committees on Finance and Transportation. The guidelines and criteria shall include provisions including the number of jobs and amounts of investment that must be committed in the event moneys are being used for an economic development project, a statement of how the studies and analysis to be completed using moneys from the Fund will advance the development of a transportation facility, a process for the application for and review of grant and loan requests, a timeframe for completion of any work, the comparative benefit resulting from the development of a transportation project, assessment of the ability of the recipient to repay any loan funds, and other criteria as necessary to support the timely development of transportation projects. The criteria shall also include incentives to encourage matching funds from any other local, federal, or private source.

F. Within 30 days of each six-month period ending June 30 and December 31, the Governor shall provide a report to the Chairmen of the House Committees on Appropriations, Finance, and Transportation and the Senate Committees on Finance and Transportation that shall include the following information: the locality in which the project is being developed, the amount of the grant or loan made or committed from the Fund and the purpose for which it will be used, the number of jobs created or projected to be created, and the amount of a company's investment in the Commonwealth if the project is part of an economic development opportunity.

G. The Governor shall provide grants and commitments from the Fund in an amount not to exceed the total value of the moneys contained in the Fund. If the Governor commits funds for years beyond the fiscal years covered under the existing appropriation act, the State Treasurer shall set aside and reserve the funds the Governor has committed, and the funds set aside and reserved shall remain in the Fund for those future fiscal years. No grant or loan shall be payable in the years beyond the existing appropriation act unless the funds are currently available in the Fund.

§ 33.2-1530. Highway Maintenance and Operating Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Highway Maintenance and Operating Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. Any moneys remaining in the Fund at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

The ~~sources of funds for the~~ Fund ~~shall be paid into the state treasury and credited to the Fund and, in addition to all funds appropriated by the General Assembly, includes~~ *shall consist of* the following:

1. Revenues ~~generated pursuant to § 33.2-213~~ *allocated pursuant to subdivision B 1 of § 33.2-1524*;

2. Civil penalties ~~collected pursuant to § 33.2-216~~ *pursuant to §§ 33.2-216, 33.2-1224, 33.2-1229, 46.2-341.20:2, 46.2-1573, 46.2-1573.11, 46.2-1573.23, and 46.2-1573.36*;

3. ~~Civil penalties collected pursuant to § 33.2-1224;~~

~~4. Civil penalties collected pursuant to § 33.2-1229;~~

~~5.~~ Permit fees ~~as outlined in § 46.2-652.1~~ *pursuant to §§ 46.2-1128, 46.2-1140.1, 46.2-1142.1, 46.2-1143, 46.2-1148, and 46.2-1149.1*; *and*

~~6. Revenues generated pursuant to § 46.2-702.1;~~

~~7. Permit fees pursuant to §§ 46.2-1128, 46.2-1140.1, 46.2-1142.1, 46.2-1143, 46.2-1148, and 46.2-1149.1;~~

~~8.~~ *5.* Applicable portions of emissions inspection fees from on-road emissions inspectors as designated in § 46.2-1182;

~~9. Revenues from subsection G of § 58.1-638 and § 58.1-638.3;~~

~~10. Revenues generated pursuant to subsection B of § 58.1-2249;~~

~~11. Revenues as apportioned in subsection E of § 58.1-2289;~~

~~12. Revenues as outlined in subsection A of § 58.1-2425; and~~

~~13. Taxes and fees pursuant to § 58.1-2701~~

6. Any other funds appropriated by the General Assembly.

In any year in which the Board determines funding in excess of the amount provided pursuant to § 33.2-1524 is necessary for the Robert O. Norris Bridge and Statewide Special Structure Program

pusuant to § 33.2-374, the Board shall allocate moneys from the Fund to the Robert O. Norris Bridge and Statewide Special Structures Fund established pursuant to § 33.2-1532.

§ 33.2-1532. Robert O. Norris Bridge and Statewide Special Structure Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Robert O. Norris Bridge and Statewide Special Structure Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller.

B. The amount allocated to the Fund pursuant to §§ ~~33.2-358,~~ ~~33.2-369,~~ *33.2-1524* and 33.2-1530 and any funds as may be appropriated by the General Assembly 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.

C. Moneys in the Fund shall be *allocated by the Board and* used solely for the purposes of funding maintenance*, rehabilitation,* and replacement of ~~large and unique~~ *special* structures*, as defined in § 33.2-374*. ~~Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Secretary of Transportation. No later than November 30 each year, the Commissioner of Highways shall submit a report to the Governor and General Assembly on the use of moneys in the Fund.~~

§ 33.2-1604. Funds for administration of Department of Rail and Public Transportation.

The Commonwealth Transportation Board may annually allocate up to 3.5 percent of the revenues available each year in the funds established pursuant to §§ ~~33.2-1601,~~ *33.2-1526.2 and* 33.2-1602~~, and 33.2-1603 and subdivision A 4 of § 58.1-638~~ to support the costs of project development, project administration, and project compliance incurred by the Department of Rail and Public Transportation in implementing rail, public transportation, and congestion management programs and grants.

§ 33.2-1700. Definitions.

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

"Board" means the Commonwealth Transportation Board, or if the Commonwealth Transportation Board is abolished, any board, commission, or officer succeeding to the principal functions thereof or upon whom the powers given by this chapter to the Board shall be given by law.

"Cost of the project," as applied to a project to be acquired by purchase or by condemnation, includes:

1. The purchase price or the amount of the award;

2. The cost of improvements, financing charges, and interest during any period of disuse before completion of improvements;

3. The cost of traffic estimates and of engineering data;

4. The cost of engineering and legal expenses;

5. The cost of plans, specifications and surveys, and estimates of cost and of revenues; and

6. Other expenses necessary or incident to determining the feasibility or practicability of the enterprises, administrative expenses, and such other expenses as may be necessary or incident to the financing authorized in this chapter and the acquisition of the project and the placing of the project in operation.

"Cost of the project," as applied to a project to be constructed, includes:

1. The cost of construction;

2. The cost of all lands, properties, rights, easements, and franchises acquired that are deemed necessary for such construction;

3. The cost of acquiring by purchase or condemnation any ferry that is deemed by the Board to be competitive with any bridge to be constructed;

4. The cost of all machinery and equipment;

5. The cost of financing charges and interest prior to construction, during construction, and for one year after completion of construction;

6. The cost of traffic estimates and of engineering data;

7. The cost of engineering and legal expenses;

8. The cost of plans, specifications and surveys, estimates of cost and of revenues; and

9. Other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expenses, and such other expenses as may be necessary or incident to the financing authorized in this chapter, the construction of the project, the placing of the project in operation, and the condemnation of property necessary for such construction and operation.

"Improvements" means those repairs to, replacements of, additions to, and betterments of a project acquired by purchase or by condemnation as are deemed necessary to place it in a safe and efficient condition for the use of the public, if such repairs, replacements, additions, and betterments are ordered prior to the sale of any bonds for the acquisition of such project.

"Owner" includes all individuals, incorporated companies, partnerships, societies, and associations having any title or interest in any property rights, easements, or franchises authorized to be acquired by

this chapter.

"Project" means any one or more of the following:

1. The York River Bridges, extending from a point within Yorktown in York County or within York County across the York River to Gloucester Point or some point in Gloucester County.

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

3. The James River Bridge, from a point at or near Jamestown, in James City County, across the James River to a point in Surry County.

4. The James River, Chuckatuck, and Nansemond River Bridges, together with necessary connecting roads, in the Cities of Newport News and Suffolk and the County of Isle of Wight.

5. The Hampton Roads Bridge-Tunnel or Bridge and Tunnel System, extending from a point or points in the Cities of Newport News and Hampton on the northwest shore of Hampton Roads across Hampton Roads to a point or points in the City of Norfolk or Suffolk on the southeast shore of Hampton Roads.

6. Interstate 264, extending from a point in the vicinity of the intersection of Interstate 64 and U.S. Route 58 at Norfolk to some feasible point between London Bridge and U.S. Route 60.

7. The Henrico-James River Bridge, extending from a point on the eastern shore of the James River in Henrico County to a point on the western shore, between Falling Creek and Bells Road interchanges of Interstate 95; however, the project shall be deemed to include all property, rights, easements, and franchises relating to this project and deemed necessary or convenient for its operation, including its approaches.

8. The limited access highway between the Newport News/Williamsburg International Airport area and the Newport News downtown area, which generally runs parallel to tracks of the Chesapeake and Ohio Railroad.

9. Transportation improvements in the Dulles Corridor, with an eastern terminus of the East Falls Church Metrorail station at Interstate 66 and a western terminus of Virginia Route 772 in Loudoun County, including without limitation the Dulles Toll Road; the Dulles Access Road; outer roadways adjacent or parallel thereto; mass transit, including rail; bus rapid transit; and capacity-enhancing treatments such as high-occupancy vehicle lanes, high-occupancy toll lanes, interchange improvements, commuter parking lots, and other transportation management strategies.

10. Subject to the limitations and approvals of § 33.2-1712, any other highway for a primary highway transportation improvement district or transportation service district that the Board has agreed to finance under a contract with any such district or any other alternative mechanism for generation of local revenues for specific funding of a project satisfactory to the Board, the financing for which is to be secured by Transportation Trust Fund revenues under any appropriation made by the General Assembly for that purpose and payable first from revenues received under such contract or other local funding source; second, to the extent required, from funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project is located or to the county or counties in which the project is located; and third, to the extent required from other legally available revenues of the Transportation Trust Fund and from any other available source of funds.

11. The U.S. Route 58 Corridor Development Program projects as defined in §§ 33.2-2300 and 33.2-2301.

12. The Northern Virginia Transportation District Program as defined in §§ 33.2-2400 and 33.2-2401.

13. Any program for highways or mass transit or transportation facilities endorsed by the affected localities, which agree that certain distributions of state recordation taxes will be dedicated and used for the payment of any bonds or other obligations, including interest thereon, the proceeds of which were used to pay the cost of the program. Any such program shall be referred to as a "Transportation Improvement Program."

14. Any project designated by the General Assembly financed in whole or part through the issuance of Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes.

15. Any project authorized by the General Assembly financed in whole or in part by funds from the Priority Transportation Fund established pursuant to § 33.2-1527 or from the proceeds of bonds whose debt service is paid in whole or in part by funds from such Fund.

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

17. The Interstate 81 Corridor Improvement Program projects as defined in §§ 33.2-3600 and 33.2-3602.

18. Railroad and other infrastructure improvements leading into Washington, D.C. from Virginia and new Metrorail-related improvements to, and serving, the Rosslyn Metrorail station in Arlington County.

"Revenues" includes tolls and any other moneys received or pledged by the Board pursuant to this chapter, including legally available Transportation Trust Fund revenues and any federal highway reimbursements and any other federal highway assistance received by the Commonwealth.

"Toll project" means a project financed in whole or in part through the issuance of revenue bonds that are secured by toll revenues generated by the project.

"Undertaking" means all of the projects authorized to be acquired or constructed under this chapter.

§ 33.2-1701. General powers of Commonwealth Transportation Board.

The Board may, subject to the provisions of this chapter:

1. Acquire by purchase or by condemnation, construct, improve, operate, and maintain any one or more of the projects mentioned and included in the undertaking as defined in § 33.2-1700;

2. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Toll Revenue Bonds," payable from earnings and from any other available sources of funds, to pay the cost of such projects;

3. Subject to the limitations and approvals of § 33.2-1712, issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Contract Revenue Bonds," secured by Transportation Trust Fund revenues under a payment agreement between the Board and the Treasury Board, subject to their appropriation by the General Assembly and payable first from revenues received pursuant to contracts with a primary highway transportation improvement district or transportation service district or other local revenue sources for which specific funding of any such bonds may be authorized by law; second, to the extent required, from funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project to be financed is located or to the county or counties in which the project to be financed is located; and third, to the extent required, from other legally available revenues of the Transportation Trust Fund and from any other available source of funds;

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

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

6. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Program Revenue Bonds," secured, subject to their appropriation by the General Assembly, (i) first from any revenues received from any Set-aside Fund established by the General Assembly pursuant to § 58.1-816.1; (ii) to the extent required, from revenues received pursuant to any contract with a locality or any alternative mechanism for generation of local revenues for specific funding of a project satisfactory to the Board; (iii) to the extent required, from funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project to be financed is located or to the city or county in which the project to be financed is located; (iv) to the extent required, from legally available revenues of the Transportation Trust Fund; and (v) from such other funds that may be appropriated by the General Assembly. No bonds for any project shall be issued under the authority of this subdivision unless such project is specifically included in a bill or resolution passed by the General Assembly;

7. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Program Revenue Bonds," secured, subject to their appropriation by the General Assembly, (i) first from any revenues received from the Commonwealth Transit Capital Fund established by the General Assembly pursuant to ~~subdivision A 4 c of § 58.1-638~~ *§ 33.2-1526.1:1*; (ii) to the extent required, from legally available revenues of the Transportation Trust Fund; and (iii) from such other funds that may be appropriated by the General Assembly. No bonds for any project shall be issued under the authority of this subdivision unless such project is specifically included in a bill or resolution passed by the General Assembly;

8. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes," secured, subject to their appropriation by the General Assembly, (i) first from any federal highway reimbursements and any other federal highway assistance received by the Commonwealth; (ii) then, at the discretion of the Board, to the extent required, from legally available revenues of the Transportation Trust Fund; and (iii) then from such

other funds, if any, that are designated by the General Assembly for such purpose;

9. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Credit Assistance Revenue Bonds," secured, subject to their appropriation by the General Assembly, solely from revenues with respect to or generated by the project being financed thereby and any tolls or other revenues pledged by the Board as security therefor and in accordance with the applicable federal credit assistance authorized with respect to such project by the U.S. Department of Transportation;

10. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Capital Projects Revenue Bonds," secured, subject to their appropriation by the General Assembly, (i) from the revenues deposited into the Priority Transportation Fund established pursuant to § 33.2-1527; (ii) to the extent required, from revenues legally available from the Transportation Trust Fund; and (iii) to the extent required, from any other legally available funds;

11. Issue grant anticipation notes of the Commonwealth from time to time to be known and designated as "Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes," secured, subject to their appropriation by the General Assembly, (i) first from the project-specific reimbursements pursuant to § 33.2-1520; (ii) then, at the discretion of the Board, to the extent required, from legally available revenues of the Transportation Trust Fund; and (iii) then from such other funds, if any, that are designated by the General Assembly for such purpose;

12. *Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Interstate 81 Program Revenue Bonds," secured, subject to appropriation by the General Assembly, by revenues received from the Interstate 81 Corridor Improvement Fund from deposits thereto pursuant to § 58.1-2299.20 derived from the receipt of the regional fuels tax levied pursuant to § 58.1-2295.1.*

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

~~13.~~ *14.* Construct grade separations at intersections of any projects with public highways, railways, or streets and adjust the lines and grades thereof so as to accommodate the same to the design of such grade separations, the cost of such grade separations and any damage incurred in adjusting the lines and grades of such highways, railways, or streets to be ascertained and paid by the Board as a part of the cost of the project;

~~14.~~ *15.* Vacate or change the location of any portion of any public highway and reconstruct the same at such new location as the Board deems most favorable for the project and of substantially the same type and in as good condition as the original highway, the cost of such reconstruction and any damage incurred in vacating or changing the location thereof to be ascertained and paid by the Board as a part of the cost of the project. Any public highway vacated or relocated by the Board shall be vacated or relocated in the manner provided by law for the vacation or relocation of public highways, and any damages awarded on account thereof may be paid by the Board as a part of the cost of the project;

~~15.~~ *16.* Make reasonable regulations for the installation, construction, maintenance, repair, renewal, and relocation of pipes, mains, sewers, conduits, cables, wires, towers, poles, and other equipment and appliances, referred to in this subdivision as "public utility facilities," of the Commonwealth and of any locality, political subdivision, public utility, or public service corporation owning or operating the same in, on, along, over, or under the project. Whenever the Board determines that it is necessary that any such public utility facilities should be relocated or removed, the Commonwealth or such locality, political subdivision, public utility, or public service corporation shall relocate or remove the same in accordance with the order of the Board. The cost and expense of such relocation or removal, including the cost of installing such public utility facilities in a new location or locations, the cost of any lands or any rights or interests in lands, and any other rights acquired to accomplish such relocation or removal, shall be ascertained by the Board.

On any toll project, the Board shall pay the cost and expense of relocation or removal as a part of the cost of the project for those public utility facilities owned or operated by the Commonwealth or such locality, political subdivision, public utility, or public service corporation. On all other projects under this chapter, the Board shall pay the cost and expense of relocation or removal as a part of the cost of the project for those public utility facilities owned or operated by the Commonwealth or such locality or political subdivision. The Commonwealth or such locality, political subdivision, public utility, or public service corporation may maintain and operate such public utility facilities with the necessary appurtenances in the new location for as long a period and upon the same terms and conditions as it had the right to maintain and operate such public utility facilities in their former location;

~~16.~~ *17.* Acquire by the exercise of the power of eminent domain any lands, property, rights, rights-of-way, franchises, easements, and other property, including public lands, parks, playgrounds, reservations, highways, or parkways, or parts thereof or rights therein, of any locality or political subdivision, deemed necessary or convenient for the construction or the efficient operation of the project

or necessary in the restoration, replacement, or relocation of public or private property damaged or destroyed.

The cost of such projects shall be paid solely from the proceeds of Commonwealth of Virginia Toll or Transportation Contract Revenue Bonds or a combination thereof or from such proceeds and from any grant or contribution that may be made thereto pursuant to the provisions of this chapter;

~~17.~~ *18.* Notwithstanding any provision of this chapter to the contrary, the Board shall be authorized to exercise the powers conferred in this chapter, in addition to its general powers to acquire rights-of-way and to construct, operate, and maintain state highways, with respect to any project that the General Assembly has authorized or may hereafter authorize to be financed in whole or in part through the issuance of bonds of the Commonwealth pursuant to the provisions of Article X, Section 9 (c) of the Constitution of Virginia; ~~and~~

~~18.~~ *19.* Enter into any agreements or take such other actions as the Board determines in connection with applying for or obtaining any federal credit assistance, including without limitation loan guarantees and lines of credit, pursuant to authorization from the U.S. Department of Transportation with respect to any project included in the Commonwealth's long-range transportation plan and the approved State Transportation Improvement Program*; and*

20. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Passenger Rail Facilities Bonds," secured, subject to their appropriation by the General Assembly from net revenues resulting from tolls, rates, fees, and charges for or in connection with the use, occupancy, and services of the Transform 66 Inside the Beltway express lanes project and remaining after payment of expenses incurred in operating such project's toll facilities.

§ 33.2-1708. Revenue bonds.

The Board may provide by resolution, at one time or from time to time, for the issuance of revenue bonds, notes, or other revenue obligations of the Commonwealth for the purpose of paying all or any part of the cost, as defined in § 33.2-1700, of any one or more projects, as defined in § 33.2-1700. The principal or purchase price of, and redemption premium, if any, and interest on such obligations shall be payable solely from the special funds herein provided for such payment. For the purposes of this section, "special funds" includes any funds established for Commonwealth of Virginia Toll Revenue Bonds, Commonwealth of Virginia Transportation Contract Revenue Bonds, Commonwealth of Virginia Transportation Revenue Bonds, *Commonwealth of Virginia Interstate 81 Program Revenue Bonds,* Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes, or Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes*, or Commonwealth of Virginia Passenger Rail Facilities Bonds*.

§ 33.2-1709. Credit of Commonwealth not pledged.

A. Commonwealth of Virginia Toll Revenue Bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds provided therefor from tolls and revenues pursuant to this chapter, from bond proceeds or earnings thereon, and from any other available sources of funds. All such bonds shall state on their face that the Commonwealth is not obligated to pay the same or the interest thereon except from the special fund provided therefor from tolls and revenues under this chapter, from bond proceeds or earnings thereon, and from any other available sources of funds, and that the full faith and credit of the Commonwealth are not pledged to the payment of the principal or interest of such bonds. The issuance of such revenue bonds under the provisions of this chapter shall not directly or indirectly or contingently obligate the Commonwealth to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment, other than appropriate available funds derived as revenues from tolls and charges under this chapter or derived from bond proceeds or earnings thereon and from any other available sources of funds.

B. Commonwealth of Virginia Transportation Contract Revenue Bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds provided therefor pursuant to this chapter (i) from revenues received pursuant to contracts with a primary highway transportation district or transportation service district or any other alternative mechanism for generation of local revenues for specific funding of a project satisfactory to the Board; (ii) to the extent required, from funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project to be financed is located or to the county or counties in which such project is located; (iii) from bond proceeds or earnings thereon; (iv) to the extent required, from other legally available revenues of the Transportation Trust Fund; and (v) from any other available source of funds. All such bonds shall state on their face that the Commonwealth is not obligated to pay the same or the interest thereon except from revenues in clauses (i) and (iii) and that the full faith and credit of the Commonwealth are not pledged to the payment of the principal and interest of such bonds. The issuance of such revenue bonds under the provisions of this chapter shall not directly or indirectly or contingently obligate the Commonwealth to levy or to pledge any form of

taxation whatever or to make any appropriation for their payment, other than to appropriate available funds derived as revenues under this chapter from the sources set forth in clauses (i) and (iii). Nothing in this chapter shall be construed to obligate the General Assembly to make any appropriation of the funds set forth in clause (ii) or (iv) for payment of such bonds.

C. Commonwealth of Virginia Transportation Revenue Bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds provided therefor pursuant to this chapter (i) from revenues received from the U.S. Route 58 Corridor Development Fund established pursuant to § 33.2-2300, subject to their appropriation by the General Assembly; (ii) to the extent required, from revenues legally available from the Transportation Trust Fund; and (iii) to the extent required, from any other legally available funds that may be appropriated by the General Assembly.

D. Commonwealth of Virginia Transportation Revenue Bonds issued under this chapter for Category 1 projects as provided in subdivision 12 of the definition of "project" in § 33.2-1700 shall not be deemed to constitute a debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth. Such bonds shall be payable solely, subject to their appropriation by the General Assembly, (i) first from revenues received from the Northern Virginia Transportation District Fund established pursuant to § 33.2-2400; (ii) to the extent required, from funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project to be financed is located or to the city or county in which the project to be financed is located; (iii) to the extent required, from legally available revenues of the Transportation Trust Fund; and (iv) from such other funds that may be appropriated by the General Assembly.

E. Commonwealth of Virginia Transportation Program Revenue Bonds issued under this chapter for projects defined in subdivision 13 of the definition of "project" in § 33.2-1700 shall not be deemed to constitute a debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth. Such bonds shall be payable solely, subject to their appropriation by the General Assembly, (i) first from any revenues received from any Set-aside Fund established by the General Assembly pursuant to § 58.1-816.1; (ii) to the extent required, from revenues received pursuant to any contract with a locality or any alternative mechanism for generation of local revenues for specific funding of a project satisfactory to the Board; (iii) to the extent required, from funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project to be financed is located or to the city or county in which the project to be financed is located; (iv) to the extent required, from legally available revenues from the Transportation Trust Fund; and (v) from such other funds that may be appropriated by the General Assembly.

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

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

H. Commonwealth of Virginia Transportation Capital Projects Revenue Bonds issued under the provisions of this chapter for projects as provided in subdivision 15 of the definition of "project" in § 33.2-1700 shall not be deemed to constitute a debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth, but such bonds shall be payable solely, subject to their appropriation by the General Assembly, (i) from the revenues deposited into the Priority Transportation Fund established pursuant to § 33.2-1527; (ii) to the extent required, from revenues legally available from the Transportation Trust Fund; and (iii) to the extent required, from any other legally available funds.

I. Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes issued under the provisions of Article 4 (§ 33.2-1511 et seq.) of Chapter 15 and this chapter shall not be deemed to constitute a debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth, but such notes shall be payable solely, subject to their appropriation by the General Assembly, (i) first from the project-specific reimbursements pursuant to § 33.2-1520; (ii) then, at the discretion of the Board, to the extent required, from legally available revenues of the Transportation Trust Fund; and (iii)

then from such other funds, if any, that are designated by the General Assembly for such purpose.

J. Commonwealth of Virginia Interstate 81 Program Revenue Bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds provided therefor pursuant to this chapter, subject to their appropriation by the General Assembly, from revenues received from the Interstate 81 Corridor Improvement Fund from deposits thereto pursuant to § 58.1-2299.20 derived from the receipt of the regional fuels tax levied pursuant to § 58.1-2295.1.

K. Commonwealth of Virginia Passenger Rail Facilities Bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth or a pledge of the full faith and credit of the Commonwealth but such bonds shall be payable solely from the funds provided therefor (i) from tolls, rates, fees, and charges pursuant to this chapter; (ii) from bond proceeds or earnings thereon; and (iii) to the extent required, from other available sources of funds. All such bonds shall state on their face that the Commonwealth is not obligated to pay the same or the interest thereon except from revenues and funds identified in clauses (i) through (iii), and the full faith and credit of the Commonwealth are not pledged to the payment of the principal of and interest on such bonds. The issuance of such revenue bonds under the provisions of this chapter shall not directly or indirectly or contingently obligate the Commonwealth to levy or to pledge any form of taxation whatsoever or to make any appropriation for their payment, other than to appropriate available funds derived as revenues under clauses (i) and (ii) and from sources under clause (iii).

§ 33.2-1803. Approval by the responsible public entity.

A. The private entity may request approval by the responsible public entity. Any such request shall be accompanied by the following material and information unless waived by the responsible public entity in its guidelines or other instructions given, in writing, to the private entity with respect to the transportation facility or facilities that the private entity proposes to develop and/or operate as a qualifying transportation facility:

1. A topographic map (1:2,000 or other appropriate scale) indicating the location of the transportation facility or facilities;

2. A description of the transportation facility or facilities, including the conceptual design of such facility or facilities and all proposed interconnections with other transportation facilities;

3. The proposed date for development and/or operation of the transportation facility or facilities along with an estimate of the life-cycle cost of the transportation facility as proposed;

4. A statement setting forth the method by which the private entity proposes to secure any property interests required for the transportation facility or facilities;

5. Information relating to the current transportation plans, if any, of each affected locality or public entity;

6. A list of all permits and approvals required for developing and/or operating improvements to the transportation facility or facilities from local, state, or federal agencies and a projected schedule for obtaining such permits and approvals;

7. A list of public utility's, locality's, or political subdivision's facilities, if any, that will be crossed by the transportation facility or facilities and a statement of the plans of the private entity to accommodate such crossings;

8. A statement setting forth the private entity's general plans for developing and/or operating the transportation facility or facilities, including identification of any revenue, public or private, or proposed debt or equity investment or concession proposed by the private entity;

9. The names and addresses of the persons who may be contacted for further information concerning the request;

10. Information on how the private entity's proposal will address the needs identified in the appropriate state, regional, or local transportation plan by improving safety, reducing congestion, increasing capacity, enhancing economic efficiency, or any combination thereof;

11. A statement of the risks, liabilities, and responsibilities to be transferred, assigned, or assumed by the private entity for the development and/or operation of the transportation facility, including revenue risk and operations and maintenance; and

12. Such additional material and information as the responsible public entity may reasonably request pursuant to its guidelines or other written instructions.

B. The responsible public entity may request proposals from private entities for the development and/or operation of transportation facilities subject to the following:

1. For transportation facilities where the Department of Transportation, *the Virginia Passenger Rail Authority,* or the Department of Rail and Public Transportation is the responsible public entity, the Transportation Public-Private Partnership Steering Committee established pursuant to § 33.2-1803.2 has determined that moving forward with the development and/or operation of the facility pursuant to this article serves the best interest of the public.

2. A finding of public interest pursuant to § 33.2-1803.1 has been issued by the responsible public

entity.

3. The responsible public entity shall not charge a fee to cover the costs of processing, reviewing, and evaluating proposals received in response to such requests.

C. The responsible public entity may grant approval of the development and/or operation of the transportation facility or facilities as a qualifying transportation facility if the responsible public entity determines that it is in the best interest of the public. The responsible public entity may determine that the development and/or operation of the transportation facility or facilities as a qualifying transportation facility serves the best interest of the public if:

1. The private entity can develop and/or operate the transportation facility or facilities with a public contribution amount that is less than the maximum public contribution determined pursuant to subsection A of § 33.2-1803.1:1 for transportation facilities where the Department of Transportation, *the Virginia Passenger Rail Authority,* or the Department of Rail and Public Transportation is the responsible public entity;

2. There is a public need for the transportation facility or facilities the private entity proposes to develop and/or operate as a qualifying transportation facility and for transportation facilities where the Department of Transportation or the Department of Rail and Public Transportation is the responsible public entity, such facility or facilities meet a need included in the plan developed pursuant to § 33.2-353;

3. The plan for the development and/or operation of the transportation facility or facilities is anticipated to have significant benefits as determined pursuant to subdivision B 1 of § 33.2-1803.1;

4. The private entity's plans will result in the timely development and/or operation of the transportation facility or facilities or their more efficient operation; and

5. The risks, liabilities, and responsibilities transferred, assigned, or assumed by the private entity provide sufficient benefits to the public to not proceed with the development and/or operation of the transportation facility through other means of procurement available to the responsible public entity.

In evaluating any request, the responsible public entity may rely upon internal staff reports prepared by personnel familiar with the operation of similar facilities or the advice of outside advisors or consultants having relevant experience.

D. The responsible public entity shall not enter into a comprehensive agreement unless the chief executive officer of the responsible public entity certifies in writing to the Governor and the General Assembly that:

1. The finding of public interest issued pursuant to § 33.2-1803.1 is still valid;

2. The transfer, assignment, and assumption of risks, liabilities, and permitting responsibilities and the mitigation of revenue risk by the private sector have not materially changed since the finding of public interest was issued pursuant to § 33.2-1803.1; and

3. The public contribution requested by the private entity does not exceed the maximum public contribution determined pursuant to subsection A of § 33.2-1803.1:1.

Changes to the project scope that do not impact the assignment of risks or liabilities or the mitigation of revenue risk shall not be considered material changes to the finding of public interest, provided that such changes were presented in a public meeting to the Commonwealth Transportation Board, other state board, or the governing body of a locality, as appropriate.

E. The responsible public entity may charge a reasonable fee to cover the costs of processing, reviewing, and evaluating the request submitted by a private entity pursuant to subsection A, including reasonable attorney fees and fees for financial and other necessary advisors or consultants. The responsible public entity shall also develop guidelines that establish the process for the acceptance and review of a proposal from a private entity pursuant to subsections A, B, C, and D. Such guidelines shall establish a specific schedule for review of the proposal by the responsible public entity, a process for alteration of that schedule by the responsible public entity if it deems that changes are necessary because of the scope or complexity of proposals it receives, the process for receipt and review of competing proposals, and the type and amount of information that is necessary for adequate review of proposals in each stage of review. For qualifying transportation facilities that have approved or pending state and federal environmental clearances, have secured significant right-of-way, have previously allocated significant state or federal funding, or exhibit other circumstances that could reasonably reduce the amount of time to develop and/or operate the qualifying transportation facility in accordance with the purpose of this chapter, the guidelines shall provide for a prioritized documentation, review, and selection process.

F. The approval of the responsible public entity shall be subject to the private entity's entering into an interim agreement or a comprehensive agreement with the responsible public entity. For any project with an estimated construction cost of over $50 million, the responsible public entity also shall require the private entity to pay the costs for an independent audit of any and all traffic and cost estimates associated with the private entity's proposal, as well as a review of all public costs and potential

liabilities to which taxpayers could be exposed (including improvements to other transportation facilities that may be needed as a result of the proposal, failure by the private entity to reimburse the responsible public entity for services provided, and potential risk and liability in the event the private entity defaults on the comprehensive agreement or on bonds issued for the project). This independent audit shall be conducted by an independent consultant selected by the responsible public entity, and all such information from such review shall be fully disclosed.

G. In connection with its approval of the development and/or operation of the transportation facility or facilities as a qualifying transportation facility, the responsible public entity shall establish a date for the acquisition of or the beginning of construction of or improvements to the qualifying transportation facility. The responsible public entity may extend such date.

H. The responsible public entity shall take appropriate action, as more specifically set forth in its guidelines, to protect confidential and proprietary information provided by the private entity pursuant to an agreement under subdivision 11 of § 2.2-3705.6.

I. The responsible public entity may also apply for, execute, and/or endorse applications submitted by private entities to obtain federal credit assistance for qualifying projects developed and/or operated pursuant to this chapter.

§ 33.2-1803.1. Finding of public interest.

A. Prior to the meeting of the Committee pursuant to subsection C of § 33.2-1803.2, the chief executive officer of the responsible public entity shall make a finding of public interest. Such finding shall include information set forth in subsection B. For transportation facilities where the Department of Transportation, *the Virginia Passenger Rail Authority,* or the Department of Rail and Public Transportation is the responsible public entity, the Secretary of Transportation, in his role as chairman of the Board, must concur with the finding of public interest.

B. At a minimum, a finding of public interest shall contain the following information:

1. A description of the benefits expected to be realized by the responsible public entity through the development and/or operation of the transportation facility, including person throughput, congestion mitigation, safety, economic development, environmental quality, and land use.

2. An analysis of the public contribution necessary for the development and/or operation of the facility or facilities pursuant to subsection A of § 33.2-1803.1:1, including a maximum public contribution that will be allowed under the procurement.

3. A description of the benefits expected to be realized by the responsible public entity through the use of this chapter compared with the development and/or operation of the transportation facility through other options available to the responsible public entity.

4. A statement of the risks, liabilities, and responsibilities to be transferred, assigned, or assumed by the private entity, which shall include the following:

a. A discussion of whether revenue risk will be transferred to the private entity and the degree to which any such transfer may be mitigated through other provisions in the interim or comprehensive agreements;

b. A description of the risks, liabilities, and responsibilities to be retained by the responsible public entity; and

c. Other items determined appropriate by the responsible public entity in the guidelines for this chapter.

5. The determination of whether the project has a high, medium, or low level of project delivery risk and a description of how such determination was made. If the qualifying transportation facility is determined to contain high risk, a description of how the public's interest will be protected through the transfer, assignment, or assumption of risks or responsibilities by the private entity in the event that issues arise with the development and/or operation of the qualifying transportation facility.

6. If the responsible public entity proposes to enter into an interim or comprehensive agreement pursuant to subdivision 2 of § 33.2-1819, information and the rationale demonstrating that proceeding in this manner is more beneficial than proceeding pursuant to subdivision 1 of § 33.2-1819.

§ 33.2-1803.1:1. Public sector analysis and competition.

A. For any transportation facility under consideration for development and/or operation under this chapter by the Department of Transportation, *the Virginia Passenger Rail Authority,* or the Department of Rail and Public Transportation, the responsible public entity shall ensure competition throughout the procurement process by developing a public sector option based on the analysis conducted in subsection B. The public sector option shall identify a maximum public contribution.

B. The responsible public entity shall undertake, in cooperation with the Secretary of Transportation and the Secretary of Finance, a public sector analysis of the cost for the responsible entity to develop and/or operate the transportation facility or facilities being considered for development and/or operation pursuant to this chapter. At a minimum, such analysis shall contain the following information:

1. Any mitigation of risk of user-fee financing through assumptions related to competing facilities, compensation for high usage of the facility by high-occupancy vehicles, or other considerations that may

mitigate the risk of user-fee financing.

2. Whether the Department of Transportation, *the Virginia Passenger Rail Authority,* or the Department of Rail and Public Transportation intends to maintain and operate the facility, or if the public sector option is based on the transfer of such responsibilities to the private sector.

3. Public contribution, if any, that would still be required to cover all costs necessary for the development and/or operation of the transportation facility in excess of financing available should the General Assembly authorize the use of debt secured by a pledge of net revenues derived from rates, fees, or other charges and the full faith and credit of the Commonwealth pursuant to Article X, Section 9 (c) of the Constitution of Virginia.

4. Funds provided to support nonuser fee generating components of the project that contribute to the benefits expected to be realized from the transportation facility pursuant to subdivision B 1 of § 33.2-1803.1.

§ 33.2-1803.2. Transportation Public-Private Partnership Steering Committee.

A. There is hereby established the Transportation Public-Private Partnership Steering Committee (the Committee) to evaluate and review financing options for the development and/or operation of transportation facility or facilities.

The Committee shall consist of the following members:

1. Two members of the Commonwealth Transportation Board;

2. The staff director of the House Committee on Appropriations, or his designee, and the staff director of the Senate Committee on Finance, or his designee;

3. A Deputy Secretary of Transportation who shall serve as the chairman;

4. The chief financial officer of either the Department of Transportation or the Department of Rail and Public Transportation, as appropriate; and

5. A nonagency public financial expert, as selected by the Secretary of Transportation.

B. Prior to the initiation of any procurement pursuant to § 33.2-1803 by the Department of Transportation, *the Virginia Passenger Rail Authority,* or the Department of Rail and Public Transportation, the Committee shall meet to review the public sector analysis and competition developed pursuant to § 33.2-1803.1:1 and concur that:

1. The assumptions regarding the project scope, benefits, and costs of the public sector option developed pursuant to § 33.2-1803.1:1 were fully and reasonably developed;

2. The assumed financing costs and valuation of both financial and construction risk mitigation included in the public sector option are financially sound and reflect the best interest of the public; and

3. The terms sheet developed for the proposed procurement contains all necessary elements.

C. After receipt of responses to the request for qualifications, but prior to the issuance of the first draft request for proposals, the Committee shall meet to determine that the development and/or operation of the transportation facility or facilities as a qualifying transportation facility serves the public interest pursuant to § 33.2-1803.1. If the Committee makes an affirmative determination, as evidenced by an affirmative vote of a majority of the members of the Committee, the Department of Transportation or the Department of Rail and Public Transportation may proceed with the procurement pursuant to § 33.2-1803.

D. Meetings of the Committee shall be open to the public, and meetings will be scheduled on an as-needed basis. However, the Committee may convene a closed session pursuant to the provisions of subdivisions A 6 and 29 of § 2.2-3711 to allow the Committee to review the public sector analysis and competition and to review proposals received pursuant to a request for qualifications.

E. The Committee shall, within 10 business days of any meeting, report on the findings of such meeting. Such report shall be made to the Chairmen of the House and Senate Committees on Transportation, the House Committee on Appropriations, and the Senate Committee on Finance.

F. Within 60 days of the execution of a comprehensive agreement pursuant to § 33.2-1803, the Department of Transportation or the Department of Rail and Public Transportation, as appropriate, shall, in closed session, brief the Committee on the details of the final bids received and the details of the evaluation of such bids.

§ 33.2-1809. Interim agreement.

A. Prior to or in connection with the negotiation of the comprehensive agreement, the responsible public entity may enter into an interim agreement with the private entity proposing the development and/or operation of the facility or facilities. Such interim agreement may (i) permit the private entity to commence activities for which it may be compensated relating to the proposed qualifying transportation facility, including project planning and development, advance right-of-way acquisition, design and engineering, environmental analysis and mitigation, survey, conducting transportation and revenue studies, and ascertaining the availability of financing for the proposed facility or facilities; (ii) establish the process and timing of the negotiation of the comprehensive agreement; and (iii) contain any other provisions related to any aspect of the development and/or operation of a qualifying transportation

facility that the parties may deem appropriate.

B. Notwithstanding any provision of this chapter to the contrary, a responsible public entity may enter in to an interim agreement with multiple private entities if the responsible public entity determines in writing that it is in the public interest to do so.

C. The Department of Transportation, *the Virginia Passenger Rail Authority*, and the Department of Rail and Public Transportation shall not enter into an interim agreement for the development of a transportation facility under this chapter that either (i) establishes a process and timing of the negotiations of the comprehensive agreement or (ii) allows for competitive negotiations as set forth in § 2.2-4302.2.

§ 33.2-2300. U.S. Route 58 Corridor Development Fund.

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 U.S. Route 58 Corridor Development Fund, referred to in this chapter as "the Fund," consisting of the first $40 million of annual collections ~~of the state recordation taxes imposed by Chapter 8 of Title 58.1, provided, however, that this dedication shall not affect the local recordation taxes under subsection B of § 58.1-802 and § 58.1-814~~ *from the Commonwealth Transportation Fund pursuant to § 33.2-1524*. The Fund shall also include such 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. Allocations from the Fund may be paid to any authority, locality, or commission for the purposes specified in § 33.2-2301.

§ 33.2-2301. U.S. Route 58 Corridor Development Program.

A. The General Assembly declares it to be in the public interest that the economic development needs and economic growth potential of south-central and Southwest Virginia be addressed by the Fund. Moneys contained in the Fund shall be used for the costs of providing an adequate, modern, safe, and efficient highway system, generally along Virginia's southern boundary (the Program), including environmental and engineering studies, rights-of-way acquisition, construction, improvements, and financing costs.

B. Allocations from the Fund shall be made annually by the Commonwealth Transportation Board for the creation and enhancement of a safe, efficient highway system connecting the communities, businesses, places of employment, and residents of the southwestern-most portion of the Commonwealth to the communities, businesses, places of employment, and residents of the southeastern-most portion of the Commonwealth, thereby enhancing the economic development potential, employment opportunities, mobility, and quality along such highway.

C. Allocations from the Fund shall not diminish or replace allocations made or planned to be made from other sources or diminish allocations to which any highway, project, facility, district, system, or locality would be entitled under other provisions of this title, but shall be supplemental to other allocations to the end that highway resource improvements in the U.S. Route 58 Corridor may be accelerated and augmented. Notwithstanding any contrary provisions of this title, allocations from the Fund may be applied to highway projects in the Interstate System, primary or secondary state highway system, or urban highway system. Allocations under this subsection shall not be limited to projects involving only existing U.S. Route 58 but may be made to projects involving other highways, provided that the broader goal of creation of an adequate modern highway system generally along Virginia's southern boundary is served thereby.

D. The Commonwealth Transportation Board may expend such funds from all sources as may be lawfully available to initiate the Program and to support bonds and other obligations referenced in subsection F. Any moneys expended from the Transportation Trust Fund for the Program, other than moneys contained in the Fund, may be reimbursed from the Fund, to the extent permitted by Article X, Section 9 of the Constitution of Virginia.

E. The Commonwealth Transportation Board is encouraged to utilize the existing four-lane divided highways, available rights-of-way acquired for additional four-laning, bypasses, connectors, and alternate routes.

F. To the extent permitted by Article X, Section 9 of the Constitution of Virginia, moneys contained in the Fund may be used to secure payment of bonds or other obligations, and the interest thereon, issued in furtherance of the purposes of this section. In addition, the Commonwealth Transportation Board is authorized to receive, dedicate, or use legally available Transportation Trust Fund revenues and any other available sources of funds to secure the payment of bonds or other obligations, including interest thereon, in furtherance of the Program. No bond or other obligations payable from revenues of the Fund shall be issued unless specifically approved by the General Assembly. No bond or other obligations, secured in whole or in part by revenues of the Fund, shall pledge the full faith and credit of the Commonwealth.

G. Forty million dollars shall be transferred annually to the Fund with the first such transfer to be

made on July 1, 1990, or as soon thereafter as reasonably practicable. Such transfer shall be made by the issuance of a treasury loan at no interest in the amount of $40 million to the Fund to ensure that the Fund is fully funded on the first day of the fiscal year. 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 § 33.2-2300~~ *Commonwealth Transportation Fund pursuant to subsection C of § 33.2-1524*. For each fiscal year following July 1, 1990, the Secretary of Finance is authorized to make additional treasury loans in the amount of $40 million on July 1 of such fiscal years, and such treasury loans shall be repaid in a like manner as provided in this subsection.

§ 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~~ *$20 million from the Commonwealth Transportation Fund pursuant to subsection C of § 33.2-1524*. 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~~ *Commonwealth Transportation Fund pursuant to subsection C of § 33.2-1524*.

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.

§ 33.2-2509. Northern Virginia Transportation Authority Fund.

There is hereby created in the state treasury a special nonreverting fund for Planning District 8 to be known as the Northern Virginia Transportation Authority Fund, referred to in this chapter as "the Fund." The Fund shall be established on the books of the Comptroller. All revenues dedicated to the Fund pursuant to ~~§~~ *§§* 58.1-638 *and 58.1-802.4*, any other funds that may be appropriated by the General Assembly, and any funds that may be received for the credit of the Fund from any other source shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

The amounts dedicated to the Fund pursuant to ~~§~~ *§§* 58.1-638 *and 58.1-802.4* shall be deposited

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

§ 33.2-3601. 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. The Fund shall be established on the books of the Comptroller. All revenues dedicated to the Fund pursuant to §§ ~~46.2-702.1:1,~~ ~~58.1-2217.1,~~ *33.2-372 and* 58.1-2299.20~~, and~~ ~~58.1-2701~~, any other funds that may be appropriated by the General Assembly, and any funds that may be received for credit to the Fund from any other sources 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.

B. Moneys in the Fund shall be used only for capital, operating, and other improvement costs identified in the Plan.

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 jurisdictions along the Interstate 81 corridor. Further, such revenues and moneys shall not be included in any computation of, or formula for, a locality's ability to pay for public education, upon which appropriations of state revenues to local governments for public education are determined.

CHAPTER 7.

HIGHWAY USE FEE AND MILEAGE-BASED USER FEE PROGRAM.

§ 46.2-770. Definitions.

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

"Alternative fuel vehicle" means a vehicle that operates on a fuel that is not subject to the tax imposed pursuant to § 58.1-2217 and (i) is not subject to the tax imposed pursuant to § 58.1-2249, (ii) is not subject to the federal excise tax levied under § 4041 of the Internal Revenue Code, (iii) is a moped, or (iv) is not registered under the International Registration Plan.

"Fuel-efficient vehicle" means a vehicle that has a combined miles per gallon rating, as determined by the U.S. Environmental Protection Agency, of 25 or greater.

§ 46.2-771. Purpose.

The purpose of this chapter is to ensure more equitable contributions to the Commonwealth Transportation Fund from alternative fuel vehicles, electric vehicles, and fuel-efficient vehicles using highways in the Commonwealth.

§ 46.2-772. Highway use fee.

A. Except as provided in subsection C, there is hereby imposed an annual highway use fee on any motor vehicle registered in the Commonwealth under § 46.2-694 or 46.2-697. The fee shall be collected by the Department at the time of vehicle registration. If the vehicle is registered for a period of other than one year as provided in § 46.2-646, the highway use fee shall be multiplied by the number of years or fraction thereof that the vehicle will be registered.

B. For an electric motor vehicle as defined in § 58.1-2201, the highway use fee shall be 85 percent of the amount of tax paid under subsection A of § 58.1-2217 on fuel used by a vehicle with a combined fuel economy of 23.7 miles per gallon for the average number of miles traveled by a passenger vehicle in the Commonwealth. For all other fuel-efficient vehicles, the highway use fee shall be 85 percent of the difference between the tax paid under Chapter 22 of Title 58.1 on the fuel used by a vehicle with a combined fuel economy equivalent to 23.7 miles per gallon for the average number of miles traveled by a passenger vehicle in the Commonwealth in a year and the tax paid under Chapter 22 of Title 58.1 on the fuel used by the vehicle being registered for the average number of miles traveled by a passenger vehicle in the Commonwealth in a year.

In calculating the fuel used by the vehicle being registered, the Commissioner shall use combined fuel economy as determined by the manufacturer of the vehicle. If the Commissioner is unable to obtain the manufacturer's fuel economy for a vehicle, then the Commissioner shall calculate fuel use based upon the average fuel economy, as determined by the U.S. Environmental Protection Agency, of (i) all trucks having the same model year as the vehicle being registered, if the vehicle has a gross weight between 6,000 pounds and 10,000 pounds, or (ii) all cars having the same model year as the vehicle. If data are not available for the model year of the vehicle being registered, then the Commissioner shall use data for the most recent model year for which data are available.

The Commissioner shall update the fees calculated under this section July 1 of each year.

C. This section shall not apply to:

1. An autocycle, moped, or motorcycle;

2. A vehicle with a gross weight over 10,000 pounds;

3. A vehicle that is otherwise exempt from paying the tax imposed pursuant to § 58.1-2217; or

4. A vehicle that is registered under the International Registration Plan.

A vehicle shall not be subject to the fee set forth in this section in any year in which such vehicle is registered to participate in the mileage-based user fee program established pursuant to § 46.2-773.

§ 46.2-773. Mileage-based user fee program.

A. There is hereby established a mileage-based user fee program. The program shall be a voluntary program that allows owners of vehicles subject to the highway use fee pursuant to § 46.2-772 to pay a mileage-based fee in lieu of the highway use fee. No owner of a motor vehicle registered in the Commonwealth shall be required to participate in the program established pursuant to this section.

B. In any year that an owner pays the fee set forth in this section, such owner shall not be subject to the fee set forth in § 46.2-772 for the same vehicle. In no case shall the fees paid pursuant to this section during a 12-month period exceed the annual highway use fee that would have otherwise been paid.

C. The fee schedule for the mileage-based user fee program shall be calculated by dividing the amount of the highway use fee as determined pursuant to subsection B of § 46.2-770 by the average number of miles traveled by a passenger vehicle in the Commonwealth to determine a fee per mile driven.

D. The Department shall establish procedures for the collection of the fees set forth in this section. Such procedures may limit the total number of participants during the first four years of the program.

§ 46.2-774. Distribution of revenues.

All revenues collected pursuant to this chapter shall be deposited into the Commonwealth Transportation Fund established pursuant to § 33.2-1524.

§ 46.2-1507. Penalties.

Except as otherwise provided in this chapter, any person violating any of the provisions of this chapter may be assessed a civil penalty by the Board. No such civil penalty shall exceed $1,000 for any single violation. Civil penalties collected under this chapter shall be deposited in the *Commonwealth* Transportation ~~Trust~~ Fund established pursuant to § 33.2-1524.

§ 46.2-1546. Registration of dealers; fees.

Every manufacturer, distributor, or dealer, before he commences to operate vehicles in his inventory for sale or resale, shall apply to the Commissioner for a dealer's certificate of vehicle registration and license plates. For the purposes of this article, a vehicle is in inventory when it is owned by or assigned to a dealer and is offered and available for sale or resale. All dealer's certificates of vehicle registration and license plates issued under this section may, at the discretion of the Commissioner, be placed in a system of staggered issue to distribute the work of issuing vehicle registration certificates and license plates as uniformly as practicable throughout the year. Dealerships which sold fewer than ~~twenty-five~~ *25* vehicles during the last ~~twelve~~ *12* months of the preceding license year shall be eligible to receive no more than two dealer's license plates; dealerships which sold at least ~~twenty-five~~ *25* but fewer than ~~fifty~~ *50* vehicles during the last ~~twelve~~ *12* months of the preceding license year shall be eligible to receive no more than four dealer's license plates. However, dealerships ~~which~~ *that* sold ~~fifty~~ *50* or more vehicles during their current license year may apply for additional license plates not to exceed four times the number of licensed salespersons employed by that dealership. Dealerships ~~which~~ *that* sold ~~fifty~~ *50* or more vehicles during the last ~~twelve~~ *12* months of the preceding license year shall be eligible to receive a number of dealer's license plates not to exceed four times the number of licensed salespersons employed by that dealership. A new applicant for a dealership shall be eligible to receive a number of dealer's license plates not to exceed four times the number of licensed salespersons employed by that dealership. For the purposes of this article, a salesperson or employee shall be considered to be employed only if he (i) works for the dealership at least ~~twenty-five~~ *25* hours each week on a regular basis and (ii) is compensated for this work. All salespersons' or employees' employment records shall be retained in accordance with the provisions of § 46.2-1529. A salesperson shall not be considered employed, within the meaning of this section, if he is an independent contractor as defined by the United States Internal Revenue Code. The fee for the issuance of dealer's license plates shall be determined by the Board, but not more than $30 per license plate; however, the fee for the first two dealer's plates shall not be less than ~~twenty-four dollars~~ *$24* and the fee for additional dealer's license plates shall not be less than ~~ten dollars and forty cents~~ *$10.40* each. For the first two dealer's license plates issued by the Department to a dealer, ~~twenty-four dollars~~ *$24* shall be deposited into the *Commonwealth* Transportation ~~Trust~~ Fund established pursuant to § 33.2-1524 and the remainder shall be deposited into the Motor Vehicle Dealer Fund. For each additional dealer's license plate issued to a dealer, ~~ten dollars and forty cents~~ *$10.40* shall be deposited into the Transportation Trust Fund and the remainder shall be deposited into the Motor Vehicle Dealer Fund.

§ 46.2-1573. Hearings and other remedies; civil penalties.

A. In every case of a hearing before the Commissioner authorized under this article, the Commissioner shall give reasonable notice of each hearing to all interested parties, and the Commissioner's decision shall be binding on the parties, subject to the rights of judicial review and appeal as provided in Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2. In every case of a hearing before the Commissioner authorized under this article based on a request or petition of a motor vehicle dealer, the manufacturer, factory branch, distributor, or distributor branch shall have the burden of proving by a preponderance of the evidence that the manufacturer, factory branch, distributor, or distributor branch has good cause to take the action or actions for which the dealer has filed the petition for a hearing or that such actions are reasonable if required under the relevant provision.

B. The hearing process before the Commissioner under this article shall commence within 90 days of the request for a hearing by prehearing conference between the hearing officer and the parties in person, by telephone, or by other electronic means designated by the Commissioner. The hearing officer will set the hearing on a date or dates consistent with the rights of due process of the parties. The Commissioner's decision shall be rendered within 60 days from the receipt of the hearing officer's recommendation. Hearings authorized under this article shall be presided over by a hearing officer selected from a list prepared by the Executive Secretary of the Supreme Court of Virginia within 60 days following the request for a hearing. Reasonable efforts shall be made to ensure that a hearing officer shall have at least five years of experience as a hearing officer in administrative hearings in the Commonwealth, shall have telephone and email capability, and shall be an active member of the Virginia State Bar. On request of the Commissioner, the Executive Secretary will name a hearing officer from the list, selected on a rotation system administered by the Executive Secretary. The hearing officer shall provide recommendations to the Commissioner within 90 days of the conclusion of the hearing.

C. Notwithstanding any contrary provision of this article, the Commissioner shall initiate investigations, conduct hearings, and determine the rights of parties under this article whenever he is provided information by the Motor Vehicle Dealer Board or any other person indicating a possible violation of any provision of this article. The Commissioner shall issue a response to the Motor Vehicle Dealer Board or person reporting the alleged violation and any other party to the investigation providing an explanation of action taken under this section and the reason for such action.

D. For purposes of any matter brought to the Commissioner under subdivisions 3, 4, 5, 6 and 7b of § 46.2-1569 with respect to which the Commissioner is to determine whether there is good cause for a proposed action or whether it would be unreasonable under the circumstances, the Commissioner shall consider:

1. The volume of the affected dealer's business in the relevant market area;

2. The nature and extent of the dealer's investment in its business;

3. The adequacy of the dealer's capitalization to the franchisor's standards and the adequacy of the dealer's facilities, equipment, parts, supplies, and personnel;

4. The effect of the proposed action on the community;

5. The extent and quality of the dealer's service under motor vehicle warranties;

6. The dealer's performance under the terms of its franchise;

7. Other economic and geographical factors reasonably associated with the proposed action; and

8. The recommendations, if any, from a three-member panel composed of members of the Board who are franchised dealers not of the same line-make involved in the hearing and who are appointed to the panel by the Commissioner.

E. An interested party in a hearing held pursuant to subsection A of this section shall comply with the effective date of compliance established by the Commissioner in his decision in such hearing, unless a stay or extension of such date is granted by the Commissioner or the Commissioner's decision is under judicial review and appeal as provided in subsection A of this section. If, after notice to such interested party and an opportunity to comment, the Commissioner finds an interested party has not complied with his decision by the designated date of compliance, unless a stay or extension of such date has been granted by the Commissioner or the Commissioner's decision is under judicial review and appeal, the Commissioner may assess such interested party a civil penalty not to exceed $1,000 per day of noncompliance. Civil penalties collected under this subsection shall be deposited into the *Commonwealth* Transportation ~~Trust~~ Fund established pursuant to § 33.2-1524.

F. During the hearing process, parties may obtain documents and materials by discovery pursuant to Rules 4:9 and 4:9A of the Supreme Court of Virginia. The parties shall exchange reports of experts, which shall meet the standard of Rule 4:1 of the Supreme Court of Virginia, at times to be established by the hearing officer. The parties may utilize any other form of discovery provided under the Rules of Supreme Court of Virginia if allowed by the hearing officer based on good cause shown. For discovery permitted under the Rules of Supreme Court of Virginia, a party may object to the discovery sought or seek to limit the discovery sought on any grounds permitted by the Rules or applicable law.

§ 58.1-608.3. Entitlement to certain sales tax revenues.

A. As used in this section, the following words and terms have the following meanings, unless some

other meaning is plainly intended:

"Bonds" means any obligations of a municipality for the payment of money.

"Cost," as applied to any public facility or to extensions or additions to any public facility, includes: (i) the purchase price of any public facility acquired by the municipality or the cost of acquiring all of the capital stock of the corporation owning the public facility and the amount to be paid to discharge any obligations in order to vest title to the public facility or any part of it in the municipality; (ii) expenses incident to determining the feasibility or practicability of the public facility; (iii) the cost of plans and specifications, surveys and estimates of costs and of revenues; (iv) the cost of all land, property, rights, easements and franchises acquired; (v) the cost of improvements, property or equipment; (vi) the cost of engineering, legal and other professional services; (vii) the cost of construction or reconstruction; (viii) the cost of all labor, materials, machinery and equipment; (ix) financing charges; (x) interest before and during construction and for up to one year after completion of construction; (xi) start-up costs and operating capital; (xii) payments by a municipality of its share of the cost of any multijurisdictional public facility; (xiii) administrative expense; (xiv) any amounts to be deposited to reserve or replacement funds; and (xv) other expenses as may be necessary or incident to the financing of the public facility. Any obligation or expense incurred by the public facility in connection with any of the foregoing items of cost may be regarded as a part of the cost.

"Municipality" means any county, city, town, authority, commission, or other public entity.

"Public facility" means (i) any auditorium, coliseum, convention center, or conference center, which is owned by a Virginia county, city, town, authority, or other public entity and where exhibits, meetings, conferences, conventions, seminars, or similar public events may be conducted; (ii) any hotel which is owned by a foundation whose sole purpose is to benefit a baccalaureate public institution of higher education in the Commonwealth and which is attached to and is an integral part of such facility, together with any lands reasonably necessary for the conduct of the operation of such events; (iii) any hotel which is attached to and is an integral part of such facility; (iv) any hotel that is adjacent to a convention center owned by a public entity and where the hotel owner enters into a public-private partnership whereby the locality contributes infrastructure, real property, or conference space; or (v) a sports complex consisting of a minor league baseball stadium and related tournament, training, and parking facilities, where a municipality owns a component of the sports complex. However, such public facility must be located in the City of Fredericksburg, City of Hampton, City of Lynchburg, City of Newport News, City of Norfolk, City of Portsmouth, City of Richmond, City of Roanoke, City of Salem, City of Staunton, City of Suffolk, City of Virginia Beach, City of Winchester, or Town of Wise. Any property, real, personal, or mixed, which is necessary or desirable in connection with any such auditorium, coliseum, convention center, sports complex, or conference center, including, without limitation, facilities for food preparation and serving, parking facilities, and office space, is encompassed within this definition. However, structures commonly referred to as "shopping centers" or "malls" shall not constitute a public facility hereunder. A public facility shall not include residential condominiums, townhomes, or other residential units. In addition, only a new public facility, or a public facility which will undergo a substantial and significant renovation or expansion, shall be eligible under subsection C. A new public facility is one whose construction began after December 31, 1991. A substantial and significant renovation entails a project whose cost is at least 50 percent of the original cost of the facility being renovated and shall have begun after December 31, 1991. A substantial and significant expansion entails an increase in floor space of at least 50 percent over that existing in the preexisting facility and shall have begun after December 31, 1991; or an increase in floor space of at least 10 percent over that existing in a public facility that qualified as such under this section and was constructed after December 31, 1991.

"Sales tax revenues" means such tax collections realized under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.), as limited herein. "Sales tax revenues" does not include the revenue generated by (i) the 0.5 percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly which shall be paid to the *Commonwealth* Transportation ~~Trust~~ Fund ~~as defined in~~ *established pursuant to* § 33.2-1524, (ii) the 1.0 percent of the state sales and use tax revenue distributed among the counties and cities of the Commonwealth pursuant to subsection D of § 58.1-638 on the basis of school age population, or (iii) any sales and use tax revenues generated by increases or allocation changes imposed by the 2013 Session of the General Assembly.

B. Notwithstanding the definition of "public facility" in subsection A, a development project that meets the requirements for a "development of regional impact" set forth herein shall be deemed to be a public facility under the provisions of this section. The locality in which the public facility is located shall be entitled to all sales tax revenues generated by transactions taking place at such public facility solely to pay the cost of any bonds issued to pay the cost, or portion thereof, of such public facility pursuant to subsection C. For purposes of this subsection, the development of regional impact must be located in the City of Bristol.

For purposes of this subsection, a "development of regional impact" means a development project (i) towards which the locality contributes infrastructure or real property as part of a public-private partnership with the developer that is equal to at least 20 percent of the aggregate cost of development, (ii) that is reasonably expected to require a capital investment of at least $50 million, (iii) that is reasonably expected to generate at least $5 million annually in state sales and use tax revenue from sales within the development, (iv) that is reasonably expected to attract at least one million visitors annually, (v) that is reasonably expected to create at least 2,000 permanent jobs, (vi) that is located in a locality that had a rate of unemployment at least three percentage points higher than the statewide average in November 2011, and (vii) that is located in a locality that is adjacent to a state that has adopted a Border Region Retail Tourism Development District Act. Within 30 days from the date of notification by a locality that it intends to contribute infrastructure or real property as part of a public-private partnership with the developer of a development of regional impact, the Department of Taxation shall review the findings of the locality with respect to clauses (i) through (vi) and shall file a written report with the Chairmen of the House Committee on Finance, the House Committee on Appropriations, and the Senate Committee on Finance.

C. Any municipality which has issued bonds (i) after December 31, 1991, but before January 1, 1996, (ii) on or after January 1, 1998, but before July 1, 1999, (iii) on or after January 1, 1999, but before July 1, 2001, (iv) on or after July 1, 2000, but before July 1, 2003, (v) on or after July 1, 2001, but before July 1, 2005, (vi) on or after July 1, 2004, but before July 1, 2007, (vii) on or after July 1, 2009, but before July 1, 2012, (viii) on or after January 1, 2011, but prior to July 1, 2015, or (ix) on or after January 1, 2013, but prior to July 1, 2020, to pay the cost, or portion thereof, of any public facility shall be entitled to all sales tax revenues generated by transactions taking place in such public facility. In the case of a public facility described in clause (v) of the definition of public facility, all such sales tax revenues shall be applied solely to repayment of the bonds issued to pay the cost, or portion thereof, of the municipality-owned component of the sports complex. Such entitlement shall continue for the lifetime of such bonds, or any refinancing or refunding thereof, but in no event shall such entitlement exceed 35 years from the initial date that any bonds were issued to pay the cost, or a portion thereof, of any public facility, and all such sales tax revenues shall be applied to repayment of the bonds. The State Comptroller shall remit such sales tax revenues to the municipality on a quarterly basis, subject to such reasonable processing delays as may be required by the Department of Taxation to calculate the actual net sales tax revenues derived from the public facility. The State Comptroller shall make such remittances to eligible municipalities, as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.). No such remittances shall be made until construction is completed and, in the case of a renovation or expansion, until the governing body of the municipality has certified that the renovation or expansion is completed; however, in the case of any public facility consisting of more than one building or structure, such remittances shall be made on a quarterly basis beginning with the first quarter in which any sales tax revenue is generated by transactions taking place at any building or structure within such public facility, whether or not construction of all or any portion, phase, building, or structure of such public facility has been completed.

D. Nothing in this section shall be construed as authorizing the pledging of the faith and credit of the Commonwealth of Virginia, or any of its revenues, for the payment of any bonds. Any appropriation made pursuant to this section shall be made only from sales tax revenues derived from the public facility for which bonds may have been issued to pay the cost, in whole or in part, of such public facility.

§ 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 *Commonwealth* Transportation ~~Trust~~ Fund ~~as defined in~~ *established pursuant to* § 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. Sixty percent of the funds shall be allocated as follows:~~

~~(1) For the first six months of each fiscal year, the funds shall be allocated as follows:~~

~~(a) 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; and~~

~~(b) Twenty percent of the funds shall be allocated by the Aviation Board for general aviation airports on a discretionary basis; and~~

~~(2) For the second six months of each fiscal year, all remaining funds shall be allocated by the Aviation Board for all eligible airports on a discretionary basis, except airports owned or leased by MWAA.~~

~~3a. There is hereby created in the Department of the Treasury a special nonreverting fund that shall be a part of the Transportation Trust Fund and that shall be known as the Commonwealth Space Flight Fund. The Commonwealth Space Flight Fund shall be established on the books of the Comptroller and the funds remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it.~~

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

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

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

~~a. The Commonwealth Mass Transit Fund shall be established on the books of the Comptroller and any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall be credited to the Fund.~~

~~b. The amounts allocated pursuant to § 33.2-1526.1 shall be used to support the operating, capital, and administrative costs of public transportation at a state share determined by the Commonwealth~~

~~Transportation Board, and these amounts may be used to support the capital project costs of public transportation and ridesharing equipment, facilities, and associated costs at a state share determined by the Commonwealth Transportation Board. Capital costs may include debt service payments on local or agency transit bonds.~~

~~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. The Commonwealth Transit Capital Fund shall not be allocated without requiring a local match from the recipient.**

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

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

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

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

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

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

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

G. (Contingent expiration date) Beginning July 1, 2013, of the remaining sales and use tax revenue, an amount equal to ~~the following percentages~~ *20 percent* of the revenue generated by a one-half percent sales and use tax, such as that paid to the *Commonwealth* Transportation ~~Trust~~ Fund as provided in ~~subdivision~~ *subsection* A ~~1~~, shall be paid to the ~~Highway Maintenance and Operating~~ *Commonwealth Transportation* 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~~ *§ 33.2-1524*.

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. (For contingent expiration date, see Acts 2018, c. 850) The additional revenue generated by increases in the state sales and use tax from the Historic Triangle pursuant to § 58.1-603.2 shall be

deposited by the Comptroller as follows: (i) 50 percent shall be deposited into the Historic Triangle Marketing Fund established pursuant to subsection E of § 58.1-603.2; and (ii) 50 percent shall be deposited in the special fund created pursuant to subdivision D 2 of § 58.1-603.2 and distributed to the localities in which the revenues were collected. The net revenues distributable under this subsection shall be computed as an estimate of the net revenues 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.

J. Beginning July 1, 2020, the first $40 million of sales and use taxes remitted by online retailers with a physical nexus established pursuant to subsection D of § 58.1-612 shall be deposited into the Major Headquarters Workforce Grant Fund established pursuant to § 59.1-284.31.

K. 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.

L. 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.

§ 58.1-638.3. (Contingent expiration date) Disposition of 0.3 percent state and local sales tax for transportation.

A. The sales and use tax revenue generated by the 0.3 percent sales and use tax increase enacted by the 2013 Session of the General Assembly shall be ~~allocated as follows:~~

~~1. An amount equal to a 0.175 percent sales and use tax shall be deposited into the Highway Maintenance and Operating Fund established pursuant to § 33.2-1530;~~

~~2. An amount equal to a 0.05 percent sales and use tax shall be deposited into the Intercity Passenger Rail Operating and Capital Fund established under § 33.2-1603; and~~

~~3. An amount equal to a 0.075 percent sales and use tax shall be deposited into the Commonwealth Mass Transit Fund~~ *deposited into the Commonwealth Transportation Fund established pursuant to § 33.2-1524*.

B. The net revenues distributable under this section 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 funds set forth in subsection A on the last day of each month.

§ 58.1-802.3. Regional transportation improvement fee.

In addition to any other tax or fee imposed under the provisions of this chapter, a fee, delineated as the "regional WMATA capital fee," is hereby imposed on each deed, instrument, or writing by which lands, tenements, or other realty located in any county or city that is a member of the Northern Virginia Transportation Authority is sold and is granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser or any other person, by such purchaser's direction. The rate of the fee, when the consideration or value of the interest, whichever is greater, equals or exceeds $100, shall be ~~$0.15~~ *$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. For fees collected in a county or city located in a transportation district established pursuant to Chapter 19 (§ 33.2-1900 et seq.) of Title 33.2 that as of January 1, 2018, meets the criteria established in § 33.2-1936 shall be transferred to the state treasury as soon as practicable and deposited into the fund established in § 33.2-3401. The fees collected in any other county or city in which the fee is imposed shall be retained by the county or city, and shall be used solely for transportation purposes.

§ 58.1-802.4. Regional congestion relief fee.

In addition to any other tax or fee imposed under the provisions of this chapter, a fee, delineated as the "regional congestion relief fee," is hereby imposed on each deed, instrument, or writing by which lands, tenements, or other realty located in any county or city in a planning district described in this section 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 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 two million or more, as shown by the most recent United States census, has not less than 1.7 million motor vehicles registered therein, and has a total transit ridership of not less 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). 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. In any case in which the fee is imposed pursuant to clause (ii) such fee shall be effective beginning on the July 1 immediately following the calendar year in which all of the criteria under such clause have been met.

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 Planning District 8, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2509. For additional planning districts that may become subject to this section, funds shall be established by appropriate legislation.

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

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

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

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

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

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

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

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

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

8. To the surviving or new corporation, partnership, limited partnership, business trust, or limited liability company upon a merger or consolidation to which two or more such entities are parties, or in a reorganization within the meaning of § 368(a)(1)(C) and (F) of the Internal Revenue Code as amended;

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

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

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

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

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

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

15. When it is a deed transferring property pursuant to a decree of divorce or of separate

maintenance or pursuant to a written instrument incident to such divorce or separation.

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

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

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

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

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

5. Securing a loan made by an organization described in subdivision A 13;

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

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

C. The tax imposed by § 58.1-802 and the fee imposed by ~~§~~ *§§* 58.1-802.3 *and 58.1-802.4* shall not apply to any:

1. Transaction described in subdivisions A 6 through 12, 14, and 15;

2. Instrument or writing given to secure a debt;

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

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

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

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

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

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

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

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

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

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

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

K. No recordation tax levied pursuant to this chapter shall be required for the recordation of any deed of distribution when no consideration has passed between the parties. Such deed shall state therein on the front page that it is a deed of distribution. As used in this subsection, "deed of distribution" means a deed conveying property from an estate or trust (i) to the original beneficiaries of a trust from the trustees holding title under a deed in trust; (ii) the purpose of which is to comply with a devise or bequest in the decedent's will or to transfer title to one or more beneficiaries after the death of the settlor in accordance with a dispositive provision in the trust instrument; (iii) that carries out the exercise of a power of appointment; or (iv) is pursuant to the exercise of the power under the Uniform Trust Decanting Act (§ 64.2-779.1 et seq.).

§ 58.1-815.4. (Contingent expiration dates) Distribution of recordation tax to the Commonwealth Transportation Fund.

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 into the Commonwealth ~~Mass Transit~~ *Transportation* Fund established pursuant to ~~subdivision A 4 of~~ § ~~58.1-638~~ *33.2-1524*.

§ 58.1-816. Distribution of recordation tax to cities and counties.

A. Effective October 1, 1993, twenty million dollars of the taxes imposed under §§ 58.1-801 through 58.1-809 which are actually paid into the state treasury, shall be distributed among the counties and cities of this Commonwealth, *except for counties and cities located in Planning District 8*, in the manner provided in subsection B of this section. Effective July 1, 1994, such annual distribution shall increase to forty million dollars. *Effective July 1, 2021, such annual distribution shall be $20 million.*

B. Subject to any ~~transfers~~ *transfer* required under ~~§§ 33.2-2400 and~~ *§* 58.1-816.1, the share of the state taxes distributable under this section among the counties and cities shall be apportioned and distributed quarterly to each county or city by the Comptroller by multiplying the amount to be distributed by a fraction in which the numerator is the amount of the taxes imposed under §§ 58.1-801 through 58.1-809 and actually paid into the state treasury which are attributable to deeds and other instruments recorded in the county or city and the denominator is the amount of taxes imposed under §§ 58.1-801 through 58.1-809 actually paid into the state treasury. All distributions pursuant to this section shall be made on a quarterly basis within thirty days of the end of the quarter. Such quarterly distribution shall equal ten million dollars. Each clerk of the court shall certify to the Comptroller, within fifteen days after the end of the quarter, all amounts collected under §§ 58.1-801 through 58.1-809 and actually paid into the state treasury which are attributable to deeds and other instruments recorded in such county or city.

C. All moneys distributed to counties and cities pursuant to this section shall be used for (i) transportation purposes, including, without limitation, construction, administration, operation, improvement, maintenance and financing of transportation facilities, or (ii) public education.

As used in this section, the term "transportation facilities" shall include all transportation-related facilities including, but not limited to, all highway systems, public transportation or mass transit systems as defined in § 33.2-100, airports as defined in § 5.1-1, and port facilities as defined in § 62.1-140. Such term shall be liberally construed for purposes of this section.

D. If any revenues distributed to a county or city under subsection C of this section are applied or expended for any transportation facilities under the control and jurisdiction of any state agency, board, commission or authority, such transportation facilities shall be constructed, operated, administered, improved and maintained in accordance with laws, rules, regulations, policies and procedures governing such state agency, board, commission or authority; however, in the event these revenues, or a portion thereof, are expended for improving or constructing highways in a county which is subject to the provisions of § 33.2-338, such expenditures shall be undertaken in the manner prescribed in that statute.

E. In the case of any distribution to a county or city in which an office sharing agreement pursuant to §§ 15.2-1637 and 15.2-3822 is in effect, the Comptroller shall divide the distribution among the office sharing counties and cities. Each clerk of the court acting pursuant to an office sharing agreement shall certify to the Comptroller, within fifteen days after the end of the quarter, all amounts collected under §§ 58.1-801 through 58.1-809 and actually paid into the state treasury which are attributable to deeds and other instruments recorded on behalf of each county and city.

§ 58.1-1741. 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 *Commonwealth* 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~~ *Commonwealth*

Transportation Fund established ~~by § 33.2-1601~~ *pursuant to § 33.2-1524* and one-third of which shall be deposited into the 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 subdivision A 2, 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.~~

§ 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 ~~two~~ *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~~ *three* percent of the amount of the charge for the occupancy of any room or space occupied in any county or city that is *(i)* a member of the Northern Virginia Transportation Authority *and (ii)* that is not described in § 58.1-1743.

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~~. *Two-thirds of the revenue collected pursuant to this section may only be used for public transportation purposes and the remaining revenue may be used for any transportation purpose.*

§ 58.1-2217. Taxes levied; rate.

A. ~~There is hereby levied a tax at the rate of seventeen and one-half cents per gallon on gasoline and gasohol. Beginning January 1, 2015, the tax rate shall be 5.1 percent of the statewide average wholesale price of a gallon of unleaded regular gasoline for the applicable base period, excluding federal and state excise taxes, as determined by the Commissioner.~~

~~In computing the average wholesale price of a gallon of gasoline, the Commissioner shall use the period from December 1 through May 31 as the base period for such determination for the immediately following period beginning July 1 and ending December 31, inclusive. The period from June 1 through November 30 shall be the next base period for the immediately following period beginning January 1 and ending June 30, inclusive. In no case shall the average wholesale price computed for purposes of this section be less than the statewide average wholesale price of a gallon of unleaded regular gasoline on February 20, 2013.~~ *There is hereby levied an excise tax on gasoline and gasohol as follows:*

1. On an after July 1, 2020, but before July 1, 2021, the rate shall be 20.2 cents per gallon;

2. On and after July 1, 2021, but before July 1, 2022, the rate shall be 24.2 cents per gallon; and

3. On an after July 1, 2022, the rate shall be adjusted annually based on the greater of (i) the change in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics for the U.S. Department of Labor for the previous year or (ii) zero.

B. ~~There is hereby levied a tax at the rate of seventeen and one-half cents per gallon on diesel fuel. Beginning January 1, 2015, the tax rate shall be six percent of the statewide average wholesale price of a gallon of diesel fuel for the applicable base period, excluding federal and state excise taxes, as determined by the Commissioner.~~

~~In computing the average wholesale price of a gallon of diesel fuel, the Commissioner shall use the~~

~~period from December 1 through May 31 as the base period for such determination for the immediately following period beginning July 1 and ending December 31, inclusive. The period from June 1 through November 30 shall be the next base period for the immediately following period beginning January 1 and ending June 30, inclusive. In no case shall the average wholesale price computed for purposes of this section be less than the statewide average wholesale price of a gallon of diesel fuel on February 20, 2013.~~ *There is hereby levied an excise tax on diesel fuel as follows:*

1. On an after July 1, 2020, but before July 1, 2021, the rate shall be 20.2 cents per gallon;

2. On and after July 1, 2021, but before July 1, 2022, the rate shall be 27 cents per gallon; and

3. On an after July 1, 2022, the rate shall be adjusted annually based on the greater of (i) the change in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics for the U.S. Department of Labor for the previous year or (ii) zero.

C. Blended fuel that contains gasoline shall be taxed at the rate levied on gasoline. Blended fuel that contains diesel fuel shall be taxed at the rate levied on diesel fuel.

D. There is hereby levied a tax at the rate of five cents per gallon on aviation gasoline. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation gasoline shall be liable for the tax at the rate levied on gasoline and gasohol, along with any penalties and interest that may accrue.

E. There is hereby levied a tax at the rate of five cents per gallon on aviation jet fuel purchased or acquired for use by a user of aviation fuel other than an aviation consumer. There is hereby levied a tax at the rate of five cents per gallon upon the first 100,000 gallons of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by any aviation consumer in any fiscal year. There is hereby levied a tax at the rate of one-half cent per gallon on all aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by an aviation consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation jet fuel taxable under this chapter shall be liable for the tax imposed at the rate levied on diesel fuel, along with any penalties and interest that may accrue.

F. In accordance with § 62.1-44.34:13, a storage tank fee is imposed on each gallon of gasoline, aviation gasoline, diesel fuel (including dyed diesel fuel), blended fuel, and heating oil sold and delivered or used in the Commonwealth.

§ 58.1-2249. Tax on alternative fuel.

~~A.~~ There is hereby levied a tax at the rate levied on gasoline and gasohol on liquid alternative fuel used to operate a highway vehicle by means of a vehicle supply tank that stores fuel only for the purpose of supplying fuel to operate the vehicle. There is hereby levied a tax at a rate equivalent to that levied on gasoline and gasohol on all other alternative fuel used to operate a highway vehicle. The Commissioner shall determine the equivalent rate applicable to such other alternative fuels.

~~B. (Contingent expiration date) In addition to any tax imposed by this article, there is hereby levied an annual license tax of $64 per vehicle on each highway vehicle registered in Virginia that is an electric motor vehicle or an alternative fuel vehicle. However, no license tax shall be levied on any vehicle that (i) is subject to the tax on fuels levied pursuant to subsection A, (ii) is subject to the federal excise tax levied under § 4041 of the Internal Revenue Code, (iii) is a moped as defined in § 46.2-100, or (iv) is registered under the International Registration Plan. If such a highway vehicle is registered for a period other than one year as provided under § 46.2-646, the license tax shall be multiplied by the number of years or fraction thereof that the vehicle will be registered. The revenues generated by this subsection shall be deposited in the Highway Maintenance and Operating Fund established pursuant to § 33.2-1530.~~

~~B. (Contingent effective date) In addition to any tax imposed by this article, there is hereby levied an annual license tax of $50 per vehicle on each highway vehicle registered in Virginia that is an electric motor vehicle. If such a highway vehicle is registered for a period other than one year as provided under § 46.2-646, the license tax shall be multiplied by the number of years or fraction thereof that the vehicle will be registered.~~

§ 58.1-2289. 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) 3.7 percent shall be deposited into the Commonwealth Mass Transit Fund established pursuant to subdivision A 4 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~~ *All remaining revenue shall be deposited into the Commonwealth Transportation Fund established pursuant to § 33.2-1524*.

§ 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 (i) any county or city, or (ii) any city wholly embraced by a county through which an interstate passes that (i) is more than 300 miles in length in the Commonwealth and (ii) as of January 1, 2019, carried more than 40 percent of interstate vehicle miles traveled for vehicles classified as Class 6 or higher.

4. 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 sellings fuels at wholesale to retail dealers for retail sale in any county or city in which a tax is not imposed pursuant to the provisions of subdivision 1, 2, or 3.

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~~ *7.6 cents per gallon on gasoline and gasohol. Beginning July 1, 2021, the tax rate shall be adjusted annually based on the greater of (i) the change in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics for the U.S. Department of Labor for the previous year or (ii) zero*. 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~~ *7.7 cents per gallon on diesel fuel. Beginning July 1, 2021, the tax rate shall be adjusted annually based on the greater of (i) the change in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics for the U.S. Department of Labor for the previous year or (ii) zero.*

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.~~ *D.* 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 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.~~ *E.* 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.

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

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

1. One-twelfth of an amount determined by multiplying $15 million by a fraction, the numerator of

which shall be such transportation district's share of funding for the commuter rail service jointly operated by the two transportation districts and the denominator of which shall be the total funding share for such commuter rail service, shall be deposited in the Commuter Rail Operating and Capital Fund established pursuant to § 33.2-3500;

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

~~b. Beginning on July 1, 2019, an amount equal to one-twelfth of the increase in taxes, interest, and civil penalties paid to the Commissioner in fiscal year 2019 compared to fiscal year 2018, minus any amounts deposited pursuant to subdivision A 1,~~ *One-twelfth of $22.183 million* shall be deposited in the Washington Metropolitan Area Transit Authority Capital Fund established pursuant to § 33.2-3401; and

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

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

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

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

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

D. 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~~ *subdivision A 3 of § 58.1-2295*, 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. *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 4 of § 58.1-2295, after subtraction of the direct costs of administration by the Department, shall be deposited in a special fund titled the "Special Fund Account for the Highway Construction District Grant Program" to be allocated by the Commonwealth Transportation Board as highway construction district grants pursuant to § 33.2-371 to the construction districts in which the taxes, interest, and civil penalties were generated.*

F. 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 Acts 2019, cc. 837 and 846) Disposition of tax revenues.

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

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

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

~~b. Beginning on July 1, 2019, an amount equal to one-twelfth of the increase in taxes, interest, and civil penalties paid to the Commissioner in fiscal year 2019 compared to fiscal year 2018, minus any amounts deposited pursuant to subdivision A 1,~~ *One-twelfth of $22.183 million* shall be deposited in the Washington Metropolitan Area Transit Authority Capital Fund established pursuant to § 33.2-3401; and

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

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

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

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

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

D. *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 4 of § 58.1-2295, after subtraction of the direct costs of administration by the Department, shall be deposited in a special fund titled the "Special Fund Account for the Highway Construction District Grant Program" to be allocated by the Commonwealth Transportation Board as highway construction district grants pursuant to § 33.2-371 to the construction districts in which the taxes, interest, and civil penalties were generated.*

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

§ 58.1-2425. (Contingent expiration date) Disposition of revenues.

~~A.~~ (For contingent expiration date, see Acts 2019, c. 52, cl. 2) Funds collected hereunder by the 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 chapter, 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 pursuant to the provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the city, town, or county wherein such manufactured home is to be situated as a dwelling; (ii) ~~effective January 1, 1987, an amount equivalent to the net additional revenues from the sales and use tax on motor vehicles generated by enactments of the 1986 Special Session of the Virginia General Assembly which amended §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402, 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) the net additional revenues generated by increases in the rates of taxes under subdivisions A 1 and A 2 of § 58.1-2402 and generated by the increase in the minimum tax under subdivision A 3 of § 58.1-2402 pursuant to enactments of a Session of the General Assembly held in 2013 shall be deposited by the Comptroller into the Highway Maintenance and Operating Fund established pursuant to § 33.2-1530; and (iv)~~ all funds collected pursuant to the provisions of this chapter from all-terrain vehicles, mopeds, and off-road motorcycles, as those terms are defined in § 46.2-100, shall be distributed as follows: (a) an amount equal to a one percent tax shall be distributed in the same manner as the one percent local sales tax pursuant to § 58.1-605, except that this amount collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in which the vehicle is used or stored for use; (b) an amount equal to a 4.3 percent tax shall be distributed in the same manner as the state sales and use tax pursuant to §§ 58.1-638 and 58.1-638.3, except that this amount collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in which the vehicle is used or stored for use; (c) if the all-terrain vehicle, moped, or off-road motorcycle was purchased from a Virginia dealer in a county or city in a planning district described in § 58.1-603.1, an amount equal to a 0.7 percent tax shall be distributed pursuant to § 58.1-603.1; (d) if the all-terrain vehicle, moped, or off-road motorcycle was purchased from anyone other than a Virginia dealer or outside of Virginia and then used or stored for use in a county or city in a planning district described in § 58.1-603.1, an amount equal to a 0.7 percent tax shall be distributed to the county or city in which the vehicle is used or stored for use; and (e) an amount equal to a one percent tax shall be distributed in a manner consistent with the provisions of subsection I of § 58.1-638 for each all-terrain vehicle, moped, and off-road motorcycle subject to the additional tax within the Historic Triangle under subdivision A 1 of § 58.1-2402*; and (iii) all remaining funds, after the collection costs of the Department of Motor Vehicles, from the sales and use tax on motor vehicles shall be distributed to and paid into the Commonwealth Transportation Fund pursuant to § 33.2-1524*.

~~A.~~ (For contingent effective date, see Acts 2019, c. 52, cl. 2) Funds collected hereunder by the 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 chapter, 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 pursuant to the provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the city, town, or county wherein such manufactured home is to be situated as a dwelling; (ii) ~~effective January 1, 1987, an amount equivalent to the net additional revenues from the sales and use tax on motor vehicles generated by enactments of the 1986 Special Session of the Virginia General Assembly which amended §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402, 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) the net additional revenues generated by increases in the rates of taxes under subdivisions A 1 and A 2 of § 58.1-2402 and generated by the increase in the minimum tax under subdivision A 3 of § 58.1-2402 pursuant to enactments of a Session of the General Assembly held in 2013 shall be deposited by the Comptroller into the Highway Maintenance and Operating Fund established pursuant to § 33.2-1530; and (iv)~~ all funds collected pursuant to the provisions of this chapter from all-terrain vehicles, mopeds, and off-road motorcycles, as those terms are defined in § 46.2-100, shall be distributed as follows: (a) an amount equal to a one percent tax shall be distributed in the same manner as the one

percent local sales tax pursuant to § 58.1-605, except that this amount collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in which the vehicle is used or stored for use; (b) an amount equal to a 4.3 percent tax shall be distributed in the same manner as the state sales and use tax pursuant to §§ 58.1-638 and 58.1-638.3, except that this amount collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in which the vehicle is used or stored for use; (c) if the all-terrain vehicle, moped, or off-road motorcycle was purchased from a Virginia dealer in a county or city in a planning district described in § 58.1-603.1, an amount equal to a 0.7 percent tax shall be distributed pursuant to § 58.1-603.1; and (d) if the all-terrain vehicle, moped, or off-road motorcycle was purchased from anyone other than a Virginia dealer or outside of Virginia and then used or stored for use in a county or city in a planning district described in § 58.1-603.1, an amount equal to a 0.7 percent tax shall be distributed to the county or city in which the vehicle is used or stored for use*; and (iii) all remaining funds, after the collection costs of the Department of Motor Vehicles, from the sales and use tax on motor vehicles shall be distributed to and paid into the Commonwealth Transportation Fund pursuant to § 33.2-1524*.

~~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 14.5 percent in fiscal year 1998-1999 and 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit Fund.~~

§ 58.1-2425. (Contingent effective date) Disposition of revenues.

~~A.~~ (For contingent expiration date, see Acts 2019, c. 52, cl. 2) Funds collected hereunder by the 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 chapter, 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 pursuant to the provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the city, town, or county wherein such manufactured home is to be situated as a dwelling; (ii) ~~effective January 1, 1987, an amount equivalent to the net additional revenues from the sales and use tax on motor vehicles generated by enactments of the 1986 Special Session of the Virginia General Assembly which amended §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402 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; and (iii)~~ all funds collected pursuant to the provisions of this chapter from all-terrain vehicles, mopeds, and off-road motorcycles, as those terms are defined in § 46.2-100, shall be distributed as follows: (a) an amount equal to a one percent tax shall be distributed in the same manner as the one percent local sales tax pursuant to § 58.1-605, except that this amount collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in which the vehicle is used or stored for use; (b) an amount equal to a four percent tax shall be distributed in the same manner as the state sales and use tax pursuant to § 58.1-638, except that this amount collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in which the vehicle is used or stored for use; and (c) an amount equal to a one percent tax shall be distributed in a manner consistent with the provisions of subsection I of § 58.1-638 for each all-terrain vehicle, moped, and off-road motorcycle subject to the additional tax within the Historic Triangle under subdivision A 1 of § 58.1-2402*; and (iii) all remaining funds, after the collection costs of the Department of Motor Vehicles, from the sales and use tax on motor vehicles shall be distributed to and paid into the Commonwealth Transportation Fund established pursuant to § 33.2-1524*.

~~A.~~ (For contingent effective date, see Acts 2019, c. 52, cl. 2) Funds collected hereunder by the 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 chapter, 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 pursuant to the provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the city, town, or county wherein such manufactured home is to be situated as a dwelling; (ii) ~~effective January 1, 1987, an amount equivalent to the net additional revenues from the sales and use tax on motor vehicles generated by~~

~~enactments of the 1986 Special Session of the Virginia General Assembly which amended §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402 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; and (iii)~~ all funds collected pursuant to the provisions of this chapter from all-terrain vehicles, mopeds, and off-road motorcycles, as those terms are defined in § 46.2-100, shall be distributed as follows: (a) an amount equal to a one percent tax shall be distributed in the same manner as the one percent local sales tax pursuant to § 58.1-605, except that this amount collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in which the vehicle is used or stored for use and (b) an amount equal to a four percent tax shall be distributed in the same manner as the state sales and use tax pursuant to § 58.1-638, except that this amount collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be distributed to the county or city in which the vehicle is used or stored for use*; and (iii) all remaining funds, after the collection costs of the Department of Motor Vehicles, from the sales and use tax on motor vehicles shall be distributed to and paid into the Commonwealth Transportation Fund established pursuant to § 33.2-1524*.

~~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 of this section, 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 14.5 percent in fiscal year 1998-1999 and 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit Fund.~~

§ 58.1-2531. Distribution of certain revenue.

A. Beginning with the Commonwealth's fiscal year beginning on July 1, 2008 and for each fiscal year thereafter, an amount equal to one-third of all revenues collected by the Department in the most recently ended fiscal year from the tax imposed under this chapter, less one-third of the total amount of such tax refunded in the most recently ended fiscal year, shall be deposited by the Comptroller to the ~~Priority~~ *Commonwealth* Transportation Fund established under ~~§ 33.2-1527~~ *§ 33.2-1524*.

B. For purposes of the Comptroller's deposits under this section, the Tax Commissioner shall, no later than July 15 of each year, provide a written certification to the Comptroller that reports the amount to be deposited pursuant to subsection A. After the required amount has been deposited as provided in subsection A, all remaining revenues from the tax imposed under this chapter shall be deposited into the general fund of the state treasury. The Comptroller shall make all deposits under this section as soon as practicable.

§ 58.1-2701. (Contingent expiration date) Amount of tax.

A. Except as provided in subsection C, every motor carrier shall pay a road tax per gallon equivalent to the cents per gallon credit for diesel fuel as determined under subsection A of § 58.1-2706 for the relevant period plus an additional amount per gallon, as determined by subsection B, calculated on the amount of motor fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute), used in its operations within the Commonwealth.

The tax imposed by this chapter shall be in addition to all other taxes of whatever character imposed on a motor carrier by any other provision of law.

B. The additional amount per gallon shall be determined by the Commissioner annually, effective July 1 of each year. On July 1, 2019, the additional amount per gallon shall be calculated by multiplying the average fuel economy by $0.01125. On July 1, 2020, and each July 1 thereafter, the additional amount per gallon shall be calculated by multiplying the average fuel economy by $0.0225. The additional amount per gallon shall be rounded to the nearest one-tenth of a cent. For purposes of this subsection, "average fuel economy" shall be calculated by dividing the total taxable miles driven in the Commonwealth by the total taxable gallons of fuel consumed in the Commonwealth, as reported in IFTA returns in the preceding taxable year.

C. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles that are not registered under the International Registration Plan shall pay a fee of $150 per year for each qualified highway vehicle regardless of whether such vehicle will be included on the motor carrier's IFTA return. For the period of July 1, 2019, through June 30, 2020, the fee shall be adjusted based on the percent change in the road tax imposed pursuant to subsection A from June 30, 2019, to July 1, 2019. The Commissioner shall adjust the fee annually on July 1 of every year thereafter based on the percentage change in the road tax imposed pursuant to subsection A for the previous fiscal year as compared to the current fiscal year. The fee is due and payable when the vehicle registration fees are paid pursuant to the provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2.

If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration

expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the registration fee paid is authorized by law.

D. ~~1. Except as provided in subdivision 2, all~~ *All* taxes and fees paid under the provisions of this chapter shall be ~~credited to the Highway Maintenance and Operating Fund established pursuant to § 33.2-1530, a special fund within~~ *deposited into* the Commonwealth Transportation Fund *established pursuant to § 33.2-1524*.

~~2. The net additional revenues generated by this section pursuant to enactments of the 2019 Session of the General Assembly shall be deposited as follows: (i) an amount equal to such net revenues multiplied by a ratio of the vehicle miles traveled on Interstate 81 by vehicles classified as Class 6 or higher by the Federal Highway Administration to the total vehicle miles traveled on all interstate highways in the Commonwealth by vehicles classified as Class 6 or higher by the Federal Highway Administration into the Interstate 81 Corridor Improvement Fund established pursuant to § 33.2-3601; (ii) an amount equal to such net revenues multiplied by a ratio of the vehicle miles traveled on the portion of interstate highways located within the boundaries of Planning District 8 by vehicles classified as Class 6 or higher by the Federal Highway Administration to total vehicle miles traveled on all interstate highways in the Commonwealth by vehicles classified as Class 6 or higher by the Federal Highway Administration into the Northern Virginia Transportation Authority Fund established pursuant to § 33.2-2509; and (iii) all remaining net revenues to the Commonwealth Transportation Board for use for operational improvements and other enhancements to improve the safety and reliability of, and travel flow along, interstate highway corridors in the Commonwealth. The Board shall ensure that for any interstate highway with more than 10 percent of total interstate truck vehicle miles traveled that the total long-term expenditure for each such interstate highway is approximately equal to the proportional revenue subject to clause (iii) that is attributable to such interstate highway. For purposes of this subdivision, "net additional revenues" means the additional revenues generated by this section pursuant to enactments of the 2019 Session of the General Assembly, minus any refunds or remittances required to be paid.~~

2. That the General Assembly finds that the completion of Corridor Q of the Appalachian Development Highway System is required to provide an adequate, modern, safe, and efficient highway that will further the economic development needs and economic growth potential of south-central and southwest Virginia.

3. That § 2 of the first enactment of Chapter 8 of the Acts of Assembly of 1989, Special Session II, as amended by the second enactment of Chapter 538 of the Acts of Assembly of 1999 and by the first enactment of Chapter 296 of the Acts of Assembly of 2013, is amended and reenacted as follows:

§ 2. The Commonwealth Transportation Board is hereby authorized, by and with the consent of the Governor, to issue, pursuant to the provisions of ~~§§ 33.1-267 through 33.1-295~~ *the Transportation Development and Revenue Bond Act (§ 33.2-1700 et seq.)* of the Code of Virginia, at one time or from time to time, bonds of the Commonwealth to be designated "Commonwealth of Virginia Transportation Revenue Bonds, Series .....," in an aggregate principal amount not exceeding $1,300,000,000, to finance the cost of the project plus an amount for the issuance costs, reserve funds, and other financing expenses. However, the additional amount of bonds that may be issued solely because of the amendments to this section by the 2013 Session of the General Assembly may be issued only if the debt service of such bonds can be met solely with the revenues provided to the Route 58 Corridor Development Fund pursuant to the provisions of § 58.1-815 of the Code of Virginia. The proceeds of such bonds shall be used exclusively for the purpose of providing funds, with any other available funds, for paying all costs incurred or to be incurred for the construction of an adequate, modern, safe, and efficient highway system, generally along Virginia's southern boundary and which comprises the U.S. Route 58 Corridor Development Program as established in § ~~33.1-221.1:2~~ *33.2-2301*, consisting of the environmental and engineering studies, rights-of-way acquisition, construction and related improvements (the Project).

Of the $104.3 million increase in bond issuance authorized by the 1999 Session of the General Assembly, $82 million shall be issued for portions of the Project as follows:

Portion of the Project	Bond amount
Ben Hur to Pennington Gap in Lee County	$9,800,000
Pennington Gap to Dryden in Lee County	$35,600,000
Anticipated shortfall on the Danville Bypass, Clarksville Bypass, Stuart Bypass, and completion of a gap west of Jonesville in Lee County	$35,100,000
Taylors Valley in Washington County	$1,500,000
Total	$82,000,000

The remaining balance of the bond issuance in the amount of $22.3 million, together with any bond issuance not necessary to complete the above projects, shall be issued for right-of-way acquisition from the Town of Stuart, in Patrick County along the Route 58 corridor to its intersection with Interstate 77

in Carroll County.

Beginning July 1, 2013, completion of the following portions of the Project shall have priority over any other portions of the Project:

Crooked Oak Section
ROW Acquisition
Utility Relocation
Permitting and Mitigation
Design
Construction and Inspection
Vesta Section
ROW Acquisition
Utility Relocation
Permitting and Mitigation
Design
Construction and Inspection
Lover's Leap Section
ROW Acquisition
Utility Relocation
Permitting and Mitigation
Design
Construction and Inspection
Final Section of Corridor Q
ROW Acquisition
Utility Relocation
Permitting and Mitigation
Design
Construction and Inspection

Of the foregoing four sections of the Project, construction of the Lover's Leap Section shall have priority over construction of the other three sections. However, construction of these other three sections may proceed simultaneously with the construction of the Lover's Leap Section if such simultaneous construction does not delay construction of the Lover's Leap Section.

Such revenue bonds shall be issued by the Commonwealth Transportation Board and sold through the Treasury Board, which is hereby designated the sales and paying agent of the Commonwealth Transportation Board with respect to such bonds. The Treasury Board's duties shall include the approval of the terms and structure of the bonds.

4. That §§ 33.2-1601, 33.2-1603, 46.2-702.1 and 46.2-702.1:1, 58.1-2217.1, and 58.1-2295.1 of the Code of Virginia are repealed.

5. That the fifth enactments of Chapters 837 and 846 of the Acts of Assembly of 2019 are repealed.

6. That the provisions of § 46.2-773 of the Code of Virginia, as created by this act, shall become effective on July 1, 2022.

7. That the Commissioner of the Department of Motor Vehicles shall convene a working group to assist the Department of Motor Vehicles in the development of the mileage-based user fee authorized pursuant to § 46.2-773 of the Code of Virginia, as created by this act. In developing recommendations, the working group shall consider (i) the protection of all personally identifiable information that may be divulged in the reporting of highway usage; (ii) methods to record and report highway usage; (iii) the administration of the program, including the collection of fees for highway usage; and (iv) other issues identified by the Commissioner of the Department of Motor Vehicles. The Commissioner of the Department of Motor Vehicles shall issue an interim report no later than July 1, 2021, and a final report no later than December 15, 2021, on the findings of the working group. The Commissioner of the Department of Motor Vehicles shall issue guidelines for the program no later than May 15, 2022. Such guidelines shall not be subject to the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

8. That the prioritization process established pursuant to subsection C of § 33.2-373 of the Code of Virginia, as added by this act, shall not apply to projects and strategies included or identified in the Interstate 81 Corridor Improvement Plan adopted by the Commonwealth Transportation Board on December 5, 2018.

9. That the initial terms for members of the Board of the Virginia Passenger Rail Authority shall be staggered as follows: (i) of the members appointed pursuant to subdivision A 2 of § 33.2-291 of the Code of Virginia, as added by this act, one shall be for a term of one year and one shall be for a term of three years; (ii) of the members appointed pursuant to subdivision A 3 of § 33.2-291, one shall be for a term of one year and one shall be for a term of three years; (iii) of the

members appointed pursuant to subdivision A 1 of § 33.2-291, one shall be appointed for a term of two years; (iv) of the members appointed pursuant to subdivision A 4 of § 33.2-291, one shall be appointed for a term of one year and two shall be appointed for a term of two years; and (v) all other members shall be appointed for a term of four years.

10. That the provisions of this act generating additional state revenue for transportation shall expire on December 31 of any year in which the General Assembly appropriates or transfers any of such additional revenues for any non-transportation-related purposes.

11. That notwithstanding the provisions of this Act, the Commonwealth Transportation Board (i) may take actions deemed necessary in fiscal years 2021, 2022 and 2023 to ensure appropriate coverage ratios for any outstanding debt backed by the Transportation Trust Fund, and (ii) may keep funding programmed to projects included in the adopted six-year improvement program as of January 1, 2020.

12. That the General Assembly has determined that the development, expansion and continuation of commuter and intercity passenger rail service and the development of rail infrastructure, rolling stock, and support facilities to support commuter and intercity passenger rail service are important elements of a balanced transportation system in the Commonwealth and are essential to the Commonwealth's continued economic growth, vitality and competitiveness in national and world markets; and that, in pursuit of the development, expansion and continuation of commuter and intercity passenger rail service, the Commonwealth is pursuing various rail and other infrastructure improvements leading into Washington, D.C., from Virginia, including a new bridge structure that crosses the Potomac River between Arlington County and the District of Columbia in the vicinity of the 14th Street Bridge complex and the Metro Fenwick Bridge and which may include, in addition to the river crossing, reasonably related new track approaches to the new bridge, as well as property acquisition and upgrades to the existing tracks on the Virginia and the Washington, D.C. sides of the new bridge; and new Metrorail related improvements to, and serving, the Rosslyn Metrorail station in Arlington County that would facilitate the movement of passengers and relieve train congestion on the Blue, Orange, and Silver Metrorail lines, and which may include a new platform and station, pedestrian connections to the existing Rosslyn Metrorail station, and a future new extension of Metrorail under the Potomac River (the "Rail Improvements"); and that, the Commonwealth, through either or both of the Virginia Department of Rail and Public Transportation and the Virginia Passenger Rail Authority or such other Commonwealth agency or political subdivision as the General Assembly may authorize, will own the network of Rail Improvements and the various rail facilities, structures and equipment constructed or acquired in connection therewith Network") and may partner with one or more passenger or commuter rail service providers, including but not limited to Amtrak and the owners and operators of Virginia Rail Express, to deliver enhanced and reliable passenger rail service throughout the Rail Network; and that, the Commonwealth, through the Virginia Department of Transportation, owns and operates the tolled express lanes comprising part of the Transform 66 Inside the Beltway express lanes project (the "Inside the Beltway Express Lanes") and the revenues therefrom are intended to be applied to pay for transportation and other infrastructure improvements in and around the I-66 corridor; and that, the General Assembly desires to authorize the incurrence of obligations secured, in part, by a pledge of certain net toll revenues from the Inside the Beltway Express Lanes collected by the Commonwealth and appropriated by the General Assembly, to finance the costs of (i) acquiring, constructing, renovating, expanding, enlarging, improving, installing and equipping the Rail Improvements and the various rail facilities, structures and equipment constructed or acquired in connection therewith; (ii) acquiring any lands, structures, fixtures, rights-of-way, franchises, easements and other property rights and interests related to the Rail Improvements; and (iii) demolishing, removing or relocating any buildings, structures or fixtures on lands acquired for the Rail Improvements.

13. That notwithstanding the provisions of § 33.2-1524 of the Code of Virginia, as amended by this act, the Robert O. Norris Bridge and Statewide Special Structures Fund established pursuant to § 33.2-1532 of the Code of Virginia shall receive $20 million in each of Fiscal Years 2021 and 2022.

14*. §1. Commonwealth of Virginia Passenger Rail Facilities Bond Act of 2020.*

This act shall be known and may be cited as the "Commonwealth of Virginia Passenger Rail Facilities Bond Act of 2020" (the Act).

§ 2. Authorization of bonds and bond anticipation notes.

The Commonwealth Transportation Board (the Transportation Board) is hereby authorized, by and with the consent of the Governor, to sell and issue, pursuant to Article X, Section 9 (d) of the Constitution of Virginia, at one time or from time to time, bonds of the Commonwealth, to be designated "Commonwealth of Virginia Passenger Rail Facilities Bonds, Series ....." in an aggregate principal

amount not exceeding $1 billion, plus amounts needed to fund issuance costs, reserve funds, capitalized interest, and other financing expenses. The Transportation Board is further hereby authorized, by and with the consent of the Governor, to borrow money in anticipation of the issuance of bonds by the issuance of bond anticipation notes (BANs), including BANs issued as commercial paper. The proceeds of such bonds and BANs, excluding amounts needed to fund issuance costs, reserve funds, capitalized interest, and other financing expenses, shall be used exclusively for the purpose of providing funds, together with any other available funds made available by the Transportation Board, the Virginia Department of Rail and Public Transportation, and the Virginia Passenger Rail Authority, to pay all or a portion of the costs of (i) acquiring, constructing, renovating, expanding, enlarging, improving, installing, and equipping the Rail Improvements, as defined in the fifteenth enactment of this act, and the various rail facilities, structures, and equipment constructed or acquired in connection therewith; (ii) acquiring any lands, structures, fixtures, rights-of-way, franchises, easements, and other property rights and interests related to the Rail Improvements; and (iii) demolishing, removing, or relocating any buildings, structures, or fixtures on lands acquired for the Rail Improvements (any of which may be referred to as an "authorized capital project").

§ 3. Deposit and application of proceeds.

The proceeds, including any premium, of bonds and BANs (except the proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs), shall be deposited in a special capital outlay fund in the state treasury or may be placed with a trustee, and, together with the investment income thereon, shall be disbursed for paying all or any part of the costs of an authorized capital project, including financing costs. The proceeds of (a) bonds the issuance of which has been anticipated by BANs, (b) refunding bonds, and (c) refunding BANs shall be used to pay such BANs, refunded bonds, and refunded BANs.

§ 4. Details, sale of bonds and BANs.

The terms and structure of each issue of bonds and BANs shall be determined by the Transportation Board, subject to approval of the Treasury Board if required by the provisions of § 2.2-2416 of the Code of Virginia. The bonds and BANs shall be dated, and may be made redeemable before their maturity or maturities at such price or prices or within such price parameters, all as may be determined by the Transportation Board. Bonds and BANs shall be in such form, shall bear interest at such rate or rates, either at fixed rates or at rates established by formula or other method, and may contain such other provisions, including senior and subordinate lien priorities on the pledged toll revenues as provided in § 7, with respect to such bonds and BANs, all as determined by the Transportation Board. The principal of and premium, if any, and the interest on bonds and BANs shall be payable in lawful money of the United States of America. Bonds and BANs may be certificated or uncertificated as determined by the Transportation Board. The Transportation Board may contract for services of such registrars, transfer agents, or other authenticating agents as it deems appropriate to maintain a record of the persons entitled to the bonds and BANs. Bonds and BANs issued in certificated form may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments on the bonds and BANs. The Treasury Board shall fix the authorized denomination or denominations of the bonds and the place or places of payment of certificated bonds and BANs, which may be at the Office of the State Treasurer or at any bank or trust company within or without the Commonwealth. Bonds shall mature at such time or times not exceeding 39 years from their date or dates, and BANs shall mature at such time or times not exceeding five years from their date or dates.

The Transportation Board may sell bonds and BANs at one time or from time to time, at public or private sale, by competitive bidding, negotiated sale, or private placement with private lenders or governmental lenders, and for such price or prices, all as it may determine to be in the best interest of the Commonwealth.

§ 5. Execution of bonds and BANs.

The bonds and BANs shall be signed on behalf of the Transportation Board by the chairman or vice-chairman of the Transportation Board, or shall bear the facsimile signature of such officer, and shall bear the official seal of the Transportation Board, which shall be attested by the manual or facsimile signature of the secretary or assistant secretary of the Transportation Board. In the event that the bonds or BANs shall bear the facsimile signature of the chairman or vice-chairman of the Transportation Board, such bonds or BANs shall be signed by such administrative assistant as the chairman of the Transportation Board shall determine or by any registrar or paying agent that may be designated by the Transportation Board. If any officer whose signature or facsimile signature appears on any bonds or BANs ceases to be such officer before delivery, such signature or facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

§ 6. Sources for payment of expenses.

All expenses incurred under this act or in connection with the issuance of bonds or BANs shall be paid from the proceeds of bonds or BANs or from other available funds as the Transportation Board

shall determine.

§ 7. Revenues.

The Transportation Board is hereby authorized (i) to fix, revise, charge, and collect tolls, rates, fees, and charges for or in connection with the use, occupancy, and services of the Inside the Beltway Express Lanes, as defined in the fifteenth enactment of this act, in amounts sufficient to provide for the operating costs of the Inside the Beltway Express Lanes tolling facilities and to provide for the payment of the principal of and the premium, if any, and interest on the bonds and BANs and the debt service and sinking funds and reserves established as provided below and (ii) to pledge to the payment of the bonds or any portion thereof or BANs issued to finance or refinance the Rail Improvements the net revenues resulting from such tolls, rates, fees, and charges and remaining after payment of expenses incurred in operating the Inside the Beltway Express Lanes tolling facilities (the Toll Revenues). The Transportation Board is further authorized to create debt service and sinking funds for the payments of the principal of and premium, if any, and interest on the bonds and BANs and other reserves required by any of the purchasers.

§ 8. Investments and contracts.

A. Pending the application of the proceeds of the bonds or BANs (including refunding bonds and BANs) to the purpose for which they have been authorized and the application of funds set aside for the purpose to the payment of bonds or BANs, they may be invested by the State Treasurer or by a trustee in securities that are legal investments under the laws of the Commonwealth for public funds and sinking funds, as the case may be. Whenever the State Treasurer or trustee receives interest from the investment of the proceeds of bonds or any BANs, such interest shall become a part of the principal of the bonds and any BANs and shall be used in the same manner as required for principal of the bonds or BANs.

B. The Commonwealth may enter into any contract or other arrangement that is determined to be necessary or appropriate to place the obligation or investment of the Commonwealth, as represented by bonds, BANs, or investments, in whole or in part, on the interest rate, cash flow, or other basis desired by the Commonwealth. Such contract or other arrangement may include, without limitation, contracts commonly known as interest rate swap agreements and futures or contracts providing for payments based on levels of, or changes in, interest rates. These contracts or arrangements may be entered into by the Commonwealth in connection with, incidental to, entering into, or maintaining, any (i) agreement that secures bonds or BANs or (ii) investment, or contract providing for investment, otherwise authorized by law. These contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the Commonwealth, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency, and any other criteria as may be appropriate. The determinations referred to in this subsection may be made by the Treasury Board or any public funds manager with professional investment capabilities duly authorized by the Treasury Board to make such determinations.

C. Any money set aside and pledged to secure payments of bonds, BANs, or any of the contracts entered into pursuant to this section may be invested in accordance with subsection A and may be pledged to and used to service any of the contracts or other arrangements entered into pursuant to subsection B.

§ 9. Security for bonds and BANs.

Subject to appropriation by the General Assembly of such amounts, the Toll Revenues are hereby irrevocably pledged for the payment of the principal of and premium, if any, and interest on bonds and BANs issued under this act. The proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs are hereby irrevocably pledged for the payment of principal of and premium, if any, and interest on the BANs or bonds to be paid or redeemed thereby. Nothing in this act or the bonds or BANs shall be deemed to create or constitute a pledge of the faith and credit of the Commonwealth or any political subdivision thereof.

§ 10. Exemption of interest from tax.

The bonds and BANs issued under the provisions of this act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any county, city, or town, or other political subdivision thereof. The Transportation Board is authorized to take or refrain from taking any and all actions and to covenant to such effect, and to require the Transportation Board, the Virginia Department of Rail and Public Transportation, and the Virginia Passenger Rail Authority to do and to covenant likewise, to the extent that, in the judgment of the Transportation Board, it is appropriate in order that interest on the bonds and BANs may be exempt from federal income tax. Alternatively, interest on bonds and BANs may be made subject to inclusion in gross income of the holders thereof for federal income tax purposes.

§ 11. Refunding bonds and BANs.

The Transportation Board is authorized, by and with the consent of the Governor, to sell and issue, at one time or from time to time, refunding bonds and BANs of the Commonwealth and to refund any or all of the bonds and BANs, respectively, issued under this act. Refunding bonds and BANs may be issued in a principal amount up to the amount necessary to pay at maturity or redeem the bonds and BANs to be refunded and pay all issuance costs and other financing expenses of the refunding. Such refunding bonds and BANs may be issued whether or not the obligations to be refunded are then subject to redemption.

§ 12. Defeasance.

Any bond or BAN for which cash or direct obligations of the United States of America shall have been set aside in escrow with the State Treasurer or a bank or trust company, within or without the Commonwealth, shall be deemed no longer outstanding under the applicable authorizing instrument, this act, and Article X, Section 9 (d) of the Constitution of Virginia.

§ 13. Legal investments.

All obligations issued under the provisions of this act are hereby made securities in which all public officers and bodies of the Commonwealth and political subdivisions thereof, insurance companies and associations, savings banks and savings institutions, including savings and loan associations, trust companies, beneficial and benevolent associations, administrators, guardians, executors, trustees, and other fiduciaries in the Commonwealth may properly and legally invest funds under their control.

§ 14. Severability.

The provisions of this act or the application thereof to any person or circumstances that are held invalid shall not affect the validity of other provisions or applications of this act which can be given effect without the invalid provisions or applications.

§ 15. Appropriation.

The proceeds of the bonds are hereby appropriated for disbursement from the state treasury pursuant to Article X, Section 7 of the Constitution of Virginia and § 2.2-1819 of the Code of Virginia. The general conditions and general provisions of the general appropriation act enacted pursuant to Chapter 15 (§ 2.2-1500 et seq.) of Title 2.2 of the Code of Virginia, as such general appropriation act may be amended from time to time, and all of the terms and conditions contained therein shall apply to the authorized capital project described in this act.

15. *§1. Commonwealth Transportation Interstate 81 Corridor Bond Act of 2020.*

This act shall be known and may be cited as the "Commonwealth Transportation Interstate 81 Corridor Bond Act of 2020."

§ 2. Definitions.

"Act" means the Commonwealth Transportation Interstate 81 Corridor Bond Act of 2020.

"Board" means the Commonwealth Transportation Board established pursuant to Article 1 (§ 33.2-200 et seq.) of Chapter 2 of Title 33.2 of the Code of Virginia.

"Bond" means a bond, a note, a credit facility, an anticipatory borrowing, and any other evidence of indebtedness issued pursuant to the provisions of the Act. A bond may contain any designation appropriate to the debt instrument.

"Bond Act" means Chapter 17 (§ 33.2-1700 et seq.) of Title 33.2 of the Code of Virginia and any amendments thereto.

"Fund" means the same as such term is defined in § 33.2-3600 of the Code of Virginia.

"Plan" means the same as such term is defined in § 33.2-3600 of the Code of Virginia.

"Program" means the same as such term is defined in § 33.2-3600 of the Code of Virginia.

§ 3. Authorization of bonds and bond anticipation notes.

The Board is hereby authorized, by and with the consent of the Governor, to issue, pursuant to the provisions of the Bond Act, revenue obligations of the Commonwealth, to be designated "Commonwealth of Virginia Interstate 81 Corridor Program Revenue Bonds, Series .....". The Board may issue bonds in one or multiple issues, provided that the aggregate principal amount does not exceed $1 billion after all costs. Such amount shall include amounts needed to fund issuance costs, reserve funds, capitalized interest, and other financing expenses, but shall exclude any refunding bonds. Such aggregate principal amount shall not include the principal amount of any bonds issued to refund prior obligations issued under this Act and shall not include any pre-project completion interest that may be converted to principal in connection with any federal program borrowing undertaken pursuant to subsection D of § 6.

§ 4. The Board shall use the proceeds of any bonds, including any premium received on the sale thereof, for the exclusive purpose of paying costs incurred or to be incurred in relation to the Plan and the Program. Such costs may include payment of bond interest during and after the construction of transportation improvements, as determined by the Board. Such costs may include expenditures for:

1. Environmental and engineering studies;

2. Acquisition of rights of way;

3. Improvements to any existing mode of transportation;

4. Acquisition of real and personal property;

5. Construction of new modes of transportation and improvements thereto;
6. Contributions to reserve funds;
7. Any financing expenses; and
8. Any purpose the Board deems necessary to implementing the Plan and the Program.

§ 5. The Board shall make proceeds of the bonds available to pay costs for the purposes identified in § 4, or to refund previously issued bonds providing funds to pay for the purposes identified in § 4. The Board may make payments to any authority, commission, locality, or other entity of the Commonwealth for purposes of paying such entity's costs related to transportation projects. The Board shall use bond proceeds together with any federal, local, or private funds that may be made available for similar purposes. The Board may use proceeds from the bonds, together with any investment earnings from such bonds, to secure the payment of principal or the purchase price and redemption premium, if any, and interest on the bonds.

§ 6. A. The Board shall determine the terms and structure of each issue of bonds, provided that its determination shall be subject to approval by the Treasury Board in accordance with § 2.2-2416 of the Code of Virginia and any amendments thereto. The bonds of each issue shall:
1. Be dated;
2. Be issued in a principal amount subject to the limitations identified in § 3;
3. Bear interest at an identified rate or rates, which may be fixed, adjustable, variable, or a combination thereof and which may be determine according to a formula or other method;
4. Mature at a time or times not exceeding 39 years from the date of issue, except as provided in subsection D; and
5. Be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments of principal or purchase price and redemption premium, if any, and interest on such bonds.

B. The Board may determine that bonds be made subject to purchase or redemption before their maturity or maturities, at such price or prices and under such terms and conditions it deems appropriate. The Board shall:
1. Determine the form of the bonds;
2. Determine whether the bonds are certificated or uncertificated;
3. Fix the authorized denomination of the bonds, provided that interest on the bonds shall be made payable in lawful money of the United States; and
4. Fix the place or places of payment of the bonds' principal, purchase price, redemption premium, if any, and interest, provided that such place may be the office of the State Treasurer or any bank or trust company in the United States.

C. All bonds issued under the Act shall have, as between successive holders, all the qualities and incidents of negotiable instruments under the Commonwealth's negotiable instruments laws.

D. Notwithstanding the maturity limitation prescribed in subdivision A 4, if the Board enters into an agreement with the authorization of the U.S. Department of Transportation pursuant to the provisions of subdivision 18 of § 33.2-1701 of the Code of Virginia, any loan, credit facility, or other borrowing that occurs under such agreement, including any advancement under a line of credit or lending program with an individualized prepayment schedule, shall not exceed 39 years from the first scheduled payment of principal. The first scheduled payment of principal shall be not more than five years from the initial advancement of funds under such loan, credit facility, line of credit, or other borrowing.

E. The Board may sell bonds from time to time at public or private sale for such price or prices as it determines to be in the best interest of the Commonwealth. The Board may sell bonds by competitive bidding, negotiated sale, or private placement with private lenders or governmental agencies.

§ 7. A. Any bonds issued pursuant to this act shall (i) be signed on behalf of the Board by the chairman or vice-chairman of the Board or shall bear the facsimile signature of such officer and (ii) bear the official seal of the Board, which shall be attested to by the manual or facsimile signature of the secretary or assistant secretary of the Board. If a bond bears a facsimile signature pursuant to clause (i), the bonds shall be signed by a designee of the Board, who may be an administrative assistant, a registrar, or a paying agent. If an officer whose signature or facsimile signature ceases to be an officer before the delivery of a bond that he signed, his signature or facsimile signature shall be valid and sufficient for all purposes as if he had remained an officer until delivery of such bonds.

B. If a loan, line of credit, or other borrowing is not evidenced by a bond, any agreements and instruments as may be necessary to provide evidence of such loan, line of credit, or other borrowing shall be signed on behalf of the Board by the chairman or vice-chairman of the Board. Such agreements and instruments may bear the official seal of the Board. Such agreements and instruments shall be signed by the secretary or assistant secretary of the Board.

§ 8. All expenses incurred under this Act or in connection with any bond issuance shall be paid from the proceeds of such bonds or from any available funds in the Fund.

§ 9. A. The proceeds of the bonds and of any anticipation notes authorized pursuant to the Act shall be placed by the State Treasurer in a special fund in the State Treasury or placed with a trustee in accordance with the provisions of § 33.2-1716 of the Code of Virginia and any amendments thereto. Such proceeds shall be disbursed only for the purpose for which such bonds and anticipation notes were issued. Proceeds derived from the sale of bonds authorized by this Act shall first be used to pay anticipation notes, if any were issued in anticipation of the sale of such bonds and renewals of such bonds.

B. Subsection A shall not apply to the proceeds of bonds when the issuance of such bonds has been anticipated by anticipation notes.

C. In accordance with subsection C of § 33.2-3601 of the Code of Virginia, proceeds of bonds and the distribution and expenditure of such proceeds shall not reduce the share of federal, state, or local revenues otherwise available to jurisdictions along the Interstate 81 corridor. Such revenues shall not affect the calculation of a locality's ability to pay for public education for purposes of determining appropriations of state revenues to localities for public education.

§ 10. The Board may receive any other funds that may be made available to pay costs of projects related to the Plan and the Program and, subject to appropriation by the General Assembly, may make available such funds for the payment of the principal, purchase price, and redemption premium, if any, and interest on bonds authorized under this Act. The Board is authorized to enter into agreements with any department or agency of the Commonwealth or any other party to allow for such funds, and any other funds, to be paid into the state treasury, or to a trustee in accordance with the provisions of § 33.2-1716 of the Code of Virginia and any amendments thereto, to pay a part of the costs of such projects, to pay any costs of issuance, to fund any part of any reserve fund, or to pay the principal or purchase price of, and redemption premium, if any, and interest on the bonds.

§ 11. In connection with the issuance or planned issuance of any bonds, the Board shall establish a fund either in the state treasury with the cooperation of the State Treasurer, or with a trustee in accordance with the provisions of § 33.2-1716 of the Code of Virginia and any amendments thereto. Such fund shall secure and be used for the payments of the bonds to the credit of which there shall be deposited such amounts, subject to appropriation by the General Assembly, necessary to pay principal, purchase price of, redemption premium if any, and interest on the bonds, as and when such costs become due and payable. Such costs shall be paid from the revenues deposited into the Interstate 81 Corridor Improvement Fund pursuant to § 58.1-2299.20 of the Code of Virginia derived from the receipt of regional fuels tax levied pursuant to § 58.1-2295.1 of the Code of Virginia.

§ 12. In connection with the issuance or planned issuance of any bonds, the Board may pay any necessary and appropriate support costs, including debt service or deposits to reserve funds, from revenues deposited to the Interstate 81 Corridor Improvement Fund pursuant to § 58.1-2299.20 of the Code of Virginia derived from the receipt of regional fuels tax levied pursuant to § 58.1-2295.1 of the Code of Virginia.

§ 13. The State Treasurer shall invest bond proceeds and moneys in any reserve funds and sinking funds related to bonds in accordance with the provisions of Chapter 18 (§ 2.2-1800 et seq.) of Title 2.2 of the Code of Virginia and any applicable law governing management of funds by a trustee pursuant to § 33.2-1716 of the Code of Virginia, and any amendments thereto.

§ 14. No tax or fee shall be imposed by the Commonwealth, a locality, or any other entity of the Commonwealth on the interest income and profit made on the sale of obligations issued under the provisions of the Act.

§ 15. Any obligation issued under this Act shall be considered a security in which any person and entity identified in § 33.2-1713 of the Code of Virginia may properly and legally invest funds.

§ 16. If any provision of this Act conflicts with a provision of the Bond Act, the provision of this Act shall control.

§ 17. This Act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purpose of this Act.

§ 18. 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.

16. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is $0 for periods of commitment to the custody of the Department of Juvenile Justice.