



**NVTC EXECUTIVE COMMITTEE MEETING  
THURSDAY, APRIL 4, 2013**

**MAIN FLOOR SMALL CONFERENCE ROOM  
2300 Wilson Blvd.  
Arlington, VA 22201**

**7:30 P.M.**

**AGENDA**

1. Summary of March 4 and 7, 2013 Executive Committee Meetings (Attached).
2. Summary of NVTC's MAC Meeting of March 19, 2013.
3. New Business.

**Committee Members:**

Jeff McKay, Chairman  
Sharon Bulova  
Jim Dyke  
William Euille  
Jay Fisette  
Cathy Hudgins  
Mary Hynes  
Tom Rust  
Paul Smedberg  
Dave Snyder



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**NVTC EXECUTIVE COMMITTEE  
MEETING SUMMARY  
NVTC Suite #620 Conference Room  
March 7, 2013**

**Attendees:**

**NVTC Executive Committee:**

Jeff McKay, Chairman  
Sharon Bulova  
Jim Dyke  
Bill Euille  
Jay Fisette  
Catherine Hudgins  
Mary Hynes  
Tom Rust  
Paul Smedberg  
David Snyder

**Others Present:**

Rick Taube

Chairman McKay called the meeting to order at 7:40 PM. The group reviewed the summaries of previous Executive Committee meetings on February 5 and 21 as well as the MAC committee meeting of February 19.

The process for interviewing and selecting a final candidate for the position of NVTC Executive Director was then discussed. The group agreed that a media release should be issued on March 8.

There being no further business Chairman McKay adjourned the meeting without objection at 7:57 p.m.





**NVTC EXECUTIVE COMMITTEE  
MEETING SUMMARY  
Arlington County Office Building  
Room #300  
March 4, 2013**

**Attendees:**

**NVTC Executive Committee:**

Jeff McKay, Chairman  
Sharon Bulova  
Jim Dyke  
Jay Fisette  
Catherine Hudgins  
Mary Hynes  
Tom Rust  
Paul Smedberg  
David Snyder

**Others Present:**

Rick Taube

Chairman McKay called the meeting to order at 2:40 PM.

On a motion by Jeff McKay and a second by Paul Smedberg, the committee voted unanimously to enter closed session:

I move that the Northern Virginia Transportation Commission Executive Committee convene a closed meeting, as authorized by Virginia Code Section 2.2-3711.A.1 for the purpose of reviewing confidential applications for the position of NVTC Executive Director.

Chairman McKay reconvened in open session at 5:45 p.m. Chairman McKay moved with a second by Mr. Smedberg:

I move that the members of the Northern Virginia Transportation Commission's Executive Committee certify: (1) that only public business matters lawfully exempted from open meeting requirements under Chapter 37, Title 2.2 of the Code of Virginia; and (2) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered by the committee.

The motion carried unanimously. Chairman McKay then adjourned the meeting.





**NVTC MANAGEMENT ADVISORY COMMITTEE  
MEETING SUMMARY  
March 19, 2013  
1:30 P.M.  
NVTC Conference Room**

**Meeting Summary of February 19, 2012**

There were no comments or corrections.

**New Electronic Payments Program.**

Mariela Garcia-Colberg presented a status update of the NEPP procurement. The revised proposals were received by WMATA on February 28, 2013 and delivered to the ROAT members by Tuesday, March 6, 2013.

The ROAT members have been holding ongoing weekly conference calls during which different sections of the proposals are discussed and members compare and contrast the offerors. These meetings will continue during the month of March. The next conference call meetings will be on March 20 and March 22. When the technical review is completed, the pricing review will start. The procurement has been pushed back and is now expected to be awarded by early May.

It is very important that the ROAT members participate on the weekly calls. However, it is even more important that they make their comments part of the record by completing the proposal evaluation worksheets and sending them directly to WMATA.

Greg Potts reminded the group that the email to send the forms to is [nepp@wmata.com](mailto:nepp@wmata.com). He also informed the group that procurement is going to take into consideration the concerns of the regional partners and will be considering all pricing options and bundling contracts options so that it can result in reduced costs to all.

**Legislative Items**

Kala Quintana distributed a copy of a letter sent from NVTA to the governor of Virginia by the NVTA.

Noelle Dominguez from Fairfax County discussed the content of the letter. In the letter, NVTA recommended the following amendments to HB 2313:



1. The first amendment is purely technical in nature.
2. NVTA is proposing an amendment to allow the NVTA to move forward with up to 11 road improvement projects prior to the completion of VDOT's effort, rather than naming specific projects within the bill. They do not recommend adding a specific list of projects to the Code.
3. As passed by the General Assembly, HB 2313 would prohibit new regional funding to be used for projects such as expanding a VRE storage yard in Spotsylvania County or Metrorail cars that serve Northern Virginia, but also the District of Columbia and Maryland. We believe that this language needs to be broadened to address this issue.
4. NVTA recommends that bond funds be excluded from the maintenance-of-effort calculation and that a five-year average be used to calculate this level that must be maintained. In addition, we would like to clarify that state and federal grant expenditures will not be included in these calculations.
5. NVTA would like the misappropriation language and consequences to be specific to individual jurisdictions. The misdeeds of any single jurisdiction should not cause the Commonwealth, the NVTA and all other jurisdictions to suffer.

The Virginia Transportation Association (VTA) also sent a letter to the Governor because of its concern over the Market Equity Act (internet tax provision). Al Harf asked Ms. Dominguez about this issue and wondered why NVTA had not included the issue in their letter. She explained NVTA was trying to follow up on the Governor's request.

Mr. Harf then suggested it would be a good idea for both NVTC and PRTC to write a letter to the DMV to confirm the relationship between the new 3.5% statewide gas tax and the regional 2.1% tax. Scott Kalkwarf volunteered to draft a letter.

Senate Bill 1140 – Performance Based Funding for Transit Bill was also discussed. This bill creates the Transit Service Delivery Advisory Committee (TSDAC) which will advise DRPT on the distribution of funds and providing input on any metrics that will be applied to transit systems on any monies exceeding \$160 million. Due to the heavy use of transit in NOVA (nearly 75% of all transit trips), staff suggested that the jurisdictions need to advocate for proportional representation.

Mr. Harf also discussed HB2152, the Transportation Commission and VRE Operations Board Membership and Voting Bill Summary. This bill gives the chairman of the CTB or his designee weighted voting equal to the weight of the VRE jurisdiction contributing the greatest amount of jurisdictional subsidy, provided the Commonwealth provides funding to VRE at least equal to that jurisdiction. Mr. Harf explained that the intent is to give the state more influence over VRE decisions.

The largest contributor to VRE is Prince William County (PWC) with 40% local contribution. Provided the state contribution is equal to that of PWC, the changes will mean that their vote will be weighted the same as PWC. Weighting the state's vote in this fashion naturally means the weight of everyone else's votes is diminished.

A discussion ensued and Christine Hoeffner from VRE asked some insightful questions that remained unanswered: What happens if the state contribution is not equal to the greatest contributing jurisdiction? Can the amount the state claims as its contribution include federal pass-through funds?

These are all issues that need to be clarified. This bill will not be enacted until July 1, 2014 because the legislation will require amendments to VRE Master Agreement and because the legislation and changes might be perceived as causing credit risk in the bonds market.

Mr. Harf also mentioned HB 2026 which broadens allowable circumstances for electronic participation of members on commissions' governing bodies. The legislation allows for commissioners to attend meetings electronically twice a year when they disclose the reasons for their absence. He announced that PRTC will amend its bylaws to allow for this provision.

**Funds for Acquisition of a Van** (The ensuing narrative incorporates additional information furnished by PRTC after the MAC meeting to embellish certain points made during the MAC meeting discussion).

The Vanpool Incentive Program (VIP) continues to move forward. Mr. Joe Stainsby has been hired as the new VIP Manager and he is working diligently to move the program along. The Vanpool program anticipates net earnings of about \$4 million annually within two and a half to three years of startup date. Because the net earnings are dependent on receipt of Section 5307 transit formula funds that are generated with a lag of about two and a half years, bridge funding was needed to cover start-up expenses, which was sought from the Commonwealth and received in large measure.

The Vanpool Program budget identified funding needs of \$5,059,000. The Commonwealth Transportation Board (CTB) has programmed all but \$1.5 million. Mindful of these facts, the three sponsoring commissions – NVTC, PRTC, and GWRC – fashioned and executed a memorandum of understanding (MOU) to enable the launch of the VIP, wherein the \$1.5 million shortfall is covered by advances that the three sponsoring commissions will make knowing that the eventual Section 5307 transit formula funds earned by the VIP will substantially exceed the amount of the advance.

The MOU also calls for NVTC and PRTC to bear GWRC's share of the advance, and recover the GWRC share of the advance from eventual Section 5307 transit formula funds (as the first call on those earnings after the program expenses are accounted for).

PRTC has configured the funding programmed by the CTB so as to limit advance funding required in FY 2013 from the three sponsoring commissions to only the match for the accessible van purchase; the remainder of the required advance funds will not be needed until FY 2015.

The advance required now from NVTC for the accessible van match is \$5,200. As explained on the memo attached to the MAC kit, this would be the 20% local match required by the jurisdiction. The van has been ordered for \$40,000 – 20% is \$8,000 and NVTC's contribution is \$5,200. Ms. Garcia-Colberg asked for confirmation, by email, on how the jurisdictions want to pay for the van.

Responding to Mr. Maslanka's question asking whether the advance is a loan that will be paid back, Mr. Harf replied that the \$1.5 million shortfall is not a loan per se, though it could be thought of that way in light of the eventual Section 5307 transit formula earnings that the commissions' member jurisdictions stand to realize, which provides a high return on the required advance. Mr. Harf went on to say that because NVTC and PRTC are bearing GWRC's portion of the advance, the GWRC portion would be recovered by NVTC and PRTC via GWRC's share of the eventual Section 5307 earnings.

#### **Draft NVTC Agenda for April 4, 2013**

A MAC member proposed adding an action item for the commission to approve a letter to DMV or TAX clarifying the details on the collection of the 2.1% NVTC gas tax. Specifically, the letter would seek to clarify that the 2.1% is collected on top of the new sales taxes. The proposal will be considered by the NVTC staff.

A MAC member also suggested including an information item: a copy of the 1980 opinion by the Attorney General which clarified the constitutionality of the 2% gas tax collected by NVTC.

#### **MAC Agenda Items for April 16, 2013**

New items to be included in the agenda include a WMATA Momentum presentation, Bus on Shoulder and I-66 Updates.

#### **New Business**

Ms. Quintana attended the Regional ITS Architectural Use and Maintenance Workshop conducted by DOT. She informed the group that all ITS projects that are funded in whole or in part with the Highway Trust fund need to conform to the National ITS Architecture and standards. She wondered if NEPP needs to follow these standards.

Ms. Quintana talked about the Champions of Change program. If anyone wants to nominate an individual for this award they can visit: <http://www.dot.gov/policy/transportation-policy/2013-white-house-champions-change> .



## **NVTC COMMISSION MEETING**

**THURSDAY, APRIL 4, 2013  
MAIN FLOOR CONFERENCE ROOM  
2300 Wilson Blvd.  
Arlington, VA 22201  
8:00 PM**

NOTE: NVTC's Executive Committee meets at 7:30 P.M.

### **AGENDA**

#### **1. Minutes of the NVTC Meeting of March 7, 2013.**

Recommended Action: Approval.

#### **2. VRE Items.**

- A. Report from the VRE Operations Board and Chief Executive Officer--Information Item.
- B. Insurance Brokerage Services for VRE--Action Item/Resolution #2214.

#### **3. Designation of NVTC Signatories and Pension Trustees.**

Kelley Coyner has joined NVTC as Executive Director and should be authorized to serve as a NVTC signatory and pension trustee.

Recommended Action: Approval of Resolution #2215.

#### **4. Legislative Items.**

Staff and commissioners will review the status of state and federal items of interest.

Discussion Item.

#### **5. WMATA Items.**

- A. NVTC's WMATA Board Members' Report.
- B. Vital Signs/WMATA Dashboard.

Discussion Item.



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**6. DRPT Report.**

NVTC Commissioner Jim Dyke will give a monthly update on DRPT activities, issues, concerns, initiatives, etc.

Information Item.

**7. Regional Transportation Items.**

- A. Crystal City-Potomac Yard Transitway.
- B. Route 1 Study.

Information Item.

**8. NVTC Financial Items for February, 2013.**

Information Item.



MINUTES  
NVTC COMMISSION MEETING – MARCH 7, 2013  
NVTC CONFERENCE ROOM – ARLINGTON, VIRGINIA

The meeting of the Northern Virginia Transportation Commission was called to order by Chairman McKay at 8:04 P.M.

Members Present

Sharon Bulova  
Barbara Comstock  
John Cook  
James Dyke  
William D. Euille  
Jay Fisette  
John Foust  
Jeffrey Greenfield  
Mark R. Herring  
Catherine Hudgins  
Mary Hynes  
Joe May  
Jeffrey McKay  
Thomas Rust  
Paul Smedberg  
David F. Snyder  
Christopher Zimmerman

Members Absent

Richard H. Black  
David Ramadan  
Ken Reid

Staff Present

Doug Allen (VRE)  
Mariela Garcia-Colberg  
Rhonda Gilchrest  
Claire Gron  
Scott Kalkwarf  
Steve MacIsaac (VRE)  
Kala Quintana  
Rick Taube

### Minutes of the January 3, 2013 Meeting

Mr. Euille moved, with a second by Mrs. Hynes, to approve the minutes. The vote in favor was cast by commissioners Bulova, Comstock, Cook, Dyke, Euille, Fisette, Foust, Greenfield, Hudgins, Hynes, May, McKay, Rust, Smedberg, Snyder and Zimmerman.

### VRE Item

Mr. Allen reported that VRE's overall on-time performance (OTP) for the month of February was almost 97 percent (98 percent on the Manassas line and 95 percent on the Fredericksburg line). VRE ridership also remains strong at over 19,000 average daily riders for the month of February. On January 29<sup>th</sup>, VRE carried over 21,000 riders, which is VRE's second highest all-time record. He also reported that on February 7<sup>th</sup> VRE hosted a Legislative Appreciation Reception in Richmond. Legislators, their staffs and others were able to tour a VRE train. At the reception, VRE recognized two members of the General Assembly for their long-time support for VRE. Senator Charles Colgan and Delegate Joe May are the first recipients of the VRE Appreciation and Leadership Award. Mr. Allen also announced that public hearings are underway throughout the region regarding the proposed four percent fare increase that would go into effect July 1, 2013. Mrs. Bulova noted that there are no VRE action items.

### NVTC's FY 2014 State Transit Assistance Application

Mr. Taube stated that Resolution #2211 would authorize NVTC staff to submit state transit assistance applications to DRPT on behalf of NVTC's five WMATA jurisdictions for regional and local bus and Metrorail service and on behalf of VRE. He directed commissioner's attention to the blue agenda item which includes a small change made under Arlington County's grant request amount. He also conveyed the good news that there is more funding coming to the region in FY 2014 compared to last year.

Mr. Zimmerman moved, with a second by Mrs. Bulova, to approve Resolution #2211 (copy attached). The vote in favor was cast by commissioners Bulova, Comstock, Cook, Dyke, Euille, Fisette, Foust, Greenfield, Hudgins, Hynes, May, McKay, Rust, Smedberg, Snyder and Zimmerman.

### Disadvantaged Business Enterprise Policy, Program and Goal

Mr. Taube stated that the commission is being asked to adopt Resolution #2212, which would establish a Disadvantaged Business Enterprise (DBE) policy, program and three-year goal for NVTC's federally funded projects. He explained that NVTC established such a policy, program and goal earlier in 2012 but FTA has asked for revisions, including the goal to be increased from 6.7 to 10.3 percent. NVTC's revised policy, program and goal were made available to the public for the required 45 days for comment.

Mr. Euille moved, with a second by Mrs. Bulova, to approve the resolution (copy attached). The vote in favor was cast by commissioners Bulova, Comstock, Cook, Dyke, Euille, Fisette, Foust, Greenfield, Hudgins, Hynes, May, McKay, Rust, Smedberg, Snyder and Zimmerman.

### Legislative Items

Mr. Taube reported that the Governor's transportation bill (HB 2313) passed both houses and now awaits the Governor's signature. The bill contains statewide revenue components that will provide roughly \$880 million annually for transportation funding by 2018. There is also a regional component for Northern Virginia which will provide another \$300-350 million annually, which will flow directly to NVTa. Secretary Connaughton has asked NVTa for feedback and any technical amendments that should be considered before the Governor signs the bill into law.

Mr. Euille applauded Governor McDonnell for stepping forward to introduce legislation that will fund transportation needs. He was glad to see the result was some type of package, although it is a hodge-podge of approaches and he is not sure it will all work. In his opinion, taking away the 17.5 cent gasoline tax was a mistake. He thanked those legislators who voted for HB 2313 because the region is better off having some plan of action as opposed to having nothing. He expressed concern about the \$200 million being taken out of the General Fund, which means funds are being taken away from other critical services, such as education.

Chairman McKay specifically thanked those legislators who assisted in getting the funding for the Dulles Rail project included in the legislative package. Mrs. Bulova also expressed her appreciation to Governor McDonnell and members of the General Assembly who worked so hard on this legislation. It is very hard to get legislation passed that will please everyone. However, this legislation is in the spirit of what this region requested—significant increases in transit funding, new funding sources, and sustainable funding.

Senator Herring arrived at 8:15 P.M.

Mr. Zimmerman agreed with Mr. Euille's comments. He stated that in order to assess this legislation, it is important to understand what it will accomplish. It is his understanding that the transit funding will flow from several funding sources, including the federal Marketplace Equity Act. If this legislation is not approved by Congress, he asked if it will result in a lower funding amount for transit because the substitute revenue source may not be distributed in the same way. Delegate May stated that he believes the substitute revenue source will use the same allocation formula. The intent of the legislation is to allow the region to raise revenues here and spend them here.

Mr. Snyder observed that any movement in the direction of more transit funding is generally a good thing. He hopes this legislation will live up to its promises and it can be implemented as efficiently as possible. He also hopes that this complicated group of

taxes, which is replacing a simple tax, will work. On a local matter, the 12 percent tax on small businesses is a burden that they cannot bear.

Mr. Fisette asked for insights from NVTC's General Assembly members regarding HB 2313. Delegate Rust observed that it was lawmaking at its best. He gives the Governor credit for putting forth a legislative proposal to get something accomplished. He is confident that it will raise the projected revenues. A critical component was that Northern Virginia and Hampton Roads, which are both different from the rest of the state and should be treated differently, are now allowed to raise, keep and spend revenue. The transit occupancy tax will generate \$347 million annually, which will flow to NVT. There are a number of conditions, including that it can only be spent on transportation. In a response to Mr. Fisette, Delegate Rust explained that if it is used for anything else, the taxes will vanish at the end of that year. Chairman McKay asked if there is a chance that this provision could be changed by the Governor so that if any one jurisdiction spends it incorrectly all the jurisdictions would not be penalized.

Senator Herring observed that the Speaker of the House did an outstanding job when he ruled the Senate redistricting plan non-germane. It was like a "reset" button had been pushed and it removed the toxic atmosphere in the Senate, which allowed members to work together on this legislation. It was a big step for General Assembly members to recognize the need for new revenue for transportation funding. Within a large legislative package, there will always be things to like and dislike, but it is all about compromise.

Delegate May stated that one of the biggest challenges was addressing statewide maintenance, which was resolved by the 3.5 percent gas tax. It is also indexed, so as gasoline prices increase so will the gas tax. The important thing is that this legislation allows the Northern Virginia region to collect revenues and spend them in the region as opposed to the current system of only having 30-cents on every tax dollar returned to this region. Delegate Rust and Delegate Albo deserve a lot of credit for getting this legislation passed. Delegate Rust acknowledged Delegate May and his important role. Delegate May also acknowledged DRPT Director Drake for her efforts.

Delegate Comstock stated that she voted against HB 2313 because of her concern regarding double taxation for Northern Virginia taxpayers and the new tax component for hybrid vehicles.

#### WMATA Items

Mrs. Hudgins reported that WMATA's General Manager set 12 targeted goals according to the strategic plan. Eight are on target and two have seen improvement from last year. Both Metrorail and Metrobus on-time performance and reliability saw significant improvements over the last year. MetroAccess has continually been on target for the last two years. Elevator and escalator availability improved over the last year and customer injuries were down 10 percent. Crime rates in parking lots reached an all-time low, however small thefts of small electronic devices drove crime rates up on

bus and rail. WMATA is beginning to see the funding commitments made by the federal, state and local jurisdictions pay off.

Mrs. Hudgins also reported that the General Manager, Richard Sarles, is in his third year of a three-year contract. Both the WMATA Board and Mr. Sarles are willing to consider a contract renewal. It is important to have continuity especially since WMATA is making progress.

Chairman McKay observed that the Dashboard Report is very helpful and thanked Mrs. Hudgins for updating the commission on the WMATA General Manager's review process. He stated that the investments to the Metro system are beginning to pay off in the quality of service provided to riders. He agreed continuity is important, especially with several upper management personnel departing WMATA in the near future. Public safety is also important.

Mr. Dyke stated that the WMATA Board adopted a resolution honoring Mrs. Hudgins for her two consecutive terms of steady leadership as WMATA's Board Chairman. Chairman McKay noted that her leadership was during some difficult times. Mrs. Hudgins stated that she did not do it by herself and it takes a good General Manager and his leadership team, as well as the WMATA Board's cooperation, to get things accomplished.

Mrs. Hynes stated that as NVTA starts up again, it will be important to convey WMATA's big project needs, including eight-car trains, dedicated bus ways, and switch improvements to provide for an effective connection of the Silver Line with the Blue Line. These would be great transit projects to fund with some of the new revenues resulting from HB 2313.

Delegate Comstock asked about the crime issue, especially as it relates to human trafficking and if WMATA has seen any improvement. Mrs. Hudgins replied that this issue needs to be focused on at a regional level.

Mr. Snyder expressed his support for eight-car trains. He also stated that something that is low cost and high impact in terms of service to the riders is improved communication. He asked NVTC's WMATA Board members to take this issue back to the Board. He stated that it is important to get the riders to participate more with management.

### DRPT Report

Chairman McKay explained that he requested that DRPT include a report to NVTC each month in order to provide better communication between NVTC and DRPT. Mr. Dyke commended Chairman McKay for his suggestion and feels that it will be beneficial to strengthen communication between the two agencies.

Mr. Dyke reviewed some of the behind the scenes events that occurred during the General Assembly Session which reflected cooperation and coordination between the jurisdictions and the Commonwealth. He reported that because of the federal

sequestration, it is likely that the Commonwealth will lose some PRIAA funding. However, the Commonwealth is still committed to paying its full share of the \$50 million contribution for WMATA service. As a result of HB 2313 a new Service Delivery Advisory Board is being created, which will include among others representatives from VTA, VACO and VML. He encouraged NVTC to coordinate with its jurisdictions to determine local officials from Northern Virginia who will serve on this Board.

Mr. Dyke gave a report on various projects throughout the Commonwealth. He reported that DRPT held a meeting to assist in getting the Route 1 Corridor project moving forward. The SuperNova study is complete and the action plan is being developed. DRPT is encouraging more local input as this study moves forward. He stated that two DRPT employees are embedded at WMATA and MWAA (Metropolitan Washington Airports Authority) for DRPT oversight. Joe Schwartz is at WMATA and Phil Leon is at MWAA. DRPT has provided congestion mitigation funding to reduce the VRE step-up fare from \$5 to \$3 during the I-95 HOT Lanes construction project. The draft EIS has been signed for the I-66 Outside the Beltway study and public hearings have been scheduled.

Mr. Dyke stated that as soon as the new NVTC Executive Director is identified, he and DRPT Director Drake are prepared to meet with the new Executive Director and Chairman McKay to discuss ways to further enhance communication between NVTC and DRPT.

### Regional Transportation Items

Transit Systems Receiving Support from Toll Revenues. An NVTC commissioner asked staff to research this issue. According to the Federal Highway Administration (FHWA) in 2010 four states distributed state toll revenues for mass transit purposes, including California (\$27.4M), Delaware (\$73.4M), New Jersey (\$6.7M) and New York (\$518M). Also two states distributed local toll revenues for mass transit: California (\$38.5 M) and New York (\$762M). According to the FY 2011 National Transit Database filings to FTA, 36 transit agencies in 11 states and territories reported receiving funding from tolls.

Virginia State Contributions for Hampton Roads Transit and Dulles Rail. NVTC staff responded to a request from a commissioner concerning capital contributions by the Commonwealth for the Dulles Rail project as compared to the Hampton Roads Transit (HRT) called the "Tide."

Regional Transportation Data Clearinghouse. In order to improve access and facilitate transportation data sharing in the region, the National Capital Region Transportation Planning Board (TPB) staff is creating the Regional Transportation Data Clearinghouse (RTDC).

MWCOG Survey: What Do People Think About Congestion Pricing? TPB, in partnership with the Brookings Institution, studied public support for congestion pricing in the Washington, DC metropolitan area. The final draft of the report was released in January, 2013.

Texas Transportation Institute 2012 Urban Mobility Report. In February 2013, TTI released this annual publication examining congestion throughout the United States. According to the report, congestion in 2011 was below its 2005 peak; however, as the economy recovers, so too will congestion levels.

#### NVTC Financial Items for December, 2012 and January, 2013

The financial reports were provided to commissioners and there were no questions.

#### Presentation to Mr. Taube

Senator Herring, Delegate May, Delegate Rust and Delegate Comstock presented a General Assembly resolution approved by both Houses expressing appreciation for Mr. Taube's almost 30 years of service as NVTC's Executive Director. Senator Herring presented the framed resolution to Mr. Taube.

Mr. Snyder thanked Mr. Taube for his service. He noted that Mr. Taube always treated the smaller jurisdictions as equals with the larger jurisdictions. Mrs. Bulova expressed her appreciation for Mr. Taube for making things happen in transit that were pivotal in changing the Washington Metropolitan region, including the expansion of the Metro system, both rail and bus, as well as the creation and establishment of VRE. She added that Mr. Taube was very effective in working behind the scenes to advance transit.

#### Closed Session

Chairman McKay moved, with a second by Mr. Smedberg, to convene a closed session, as authorized by Virginia Code section 2.2-3711.A.1, for the purpose of discussing a personnel matter.

The vote in favor was cast by commissioners Bulova, Comstock, Cook, Dyke, Euille, Fissette, Foust, Greenfield, Herring, Hudgins, Hynes, May, McKay, Rust, Smedberg, Snyder and Zimmerman.

The commission entered into closed session at 9:15 P.M. and returned to open session at 9:51 P.M.



Mr. Zimmerman moved, with a second by Mrs. Bulova, the following certification:

The Northern Virginia Transportation Commission certifies that at the just concluded Closed Session:

1. Only public business matters lawfully exempted from open meeting requirements under Chapter 37, Title 2.2 of the Code of Virginia were discussed; and
2. Only such public business matters as were identified in the motion by which the closed session was convened were heard, discussed or considered by the commission.

The vote in favor was cast by commissioners Bulova, Comstock, Cook, Dyke, Euille, Fisette, Foust, Greenfield, Herring, Hudgins, Hynes, May, McKay, Rust, Smedberg, Snyder and Zimmerman.

Mr. Fisette moved, with a second by Delegate Rust, to approve Resolution #2213, which would authorize the Executive Committee to transmit an offer of employment and authorize the Chairman to execute an employment agreement with the candidate discussed during the Closed Session. (A copy of the resolution is attached.) The vote in favor was cast by commissioners Bulova, Comstock, Cook, Dyke, Euille, Fisette, Foust, Greenfield, Herring, Hudgins, Hynes, May, McKay, Rust, Smedberg, Snyder and Zimmerman.

On behalf of the commission, Mrs. Hudgins acknowledged Mr. Fisette's leadership role in the search for a new Executive Director. Mr. Fisette announced that the offer of employment to serve as NVTC's new Executive Director will go to Kelley Coyner.

### Adjournment

Without objection, Chairman McKay adjourned the meeting at 9:52 P.M.

Approved this 4<sup>th</sup> day of April, 2013.

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Jeffrey McKay  
Chairman

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David F. Snyder  
Secretary-Treasurer



AGENDA ITEM #2

**TO:** Chairman McKay and NVTC Commissioners

**FROM:** Claire Gron

**DATE:** March 28, 2013

**SUBJECT:** VRE Items

- 
- A. Report from the VRE Operations Board and Chief Executive Officer--Information Item.
  - B. Insurance Brokerage Services for VRE—Action Item/Resolution #2214.

Item #2A

Report from the VRE Operations Board and VRE's Chief Executive Officer

Attached is the CEO report from March, including performance data. Minutes from the March 15, 2013 VRE Operations Board are also attached.

# CEO REPORT

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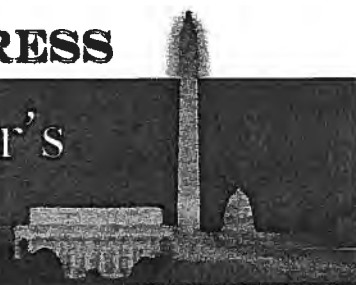


<b>Performance</b>	<b>2</b>
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Capital Project Summary	19



# VIRGINIA RAILWAY EXPRESS

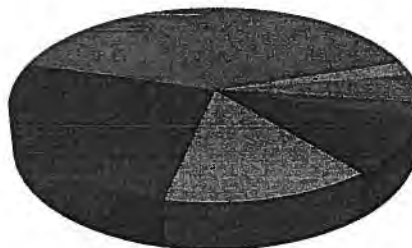
## Chief Executive Officer's Report



### PERFORMANCE:



#### Reasons for Delays



- Signal/Switch Failure - 1
- Other - 4
- AMTRAK Interference - 6
- VRE Interference - 11
- Slow Orders - 5
- Freight Interference - 12
- Mechanical Failure - 1
- Passenger Handling - 2

### On Time Performance

---

February performance again met expectations as the final number OTP was 96%. So again we have crested above 95% for the overall monthly performance or better for eighteen consecutive months. That is without question the highest and most consistent performance that VRE has produced in our 20 year history.

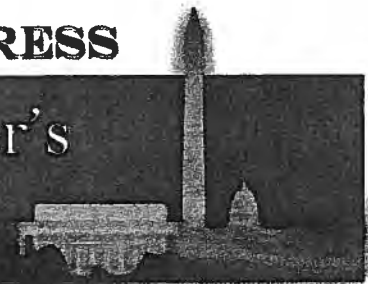
As for individual line performance, the Fredericksburg line came in at 95% and the Manassas line reported a final tally of 98% for the month of February.

The chart above was reformatted last month to provide a clearer understand of the various delays we encounter during our daily operation. For the month of February, freight interference was the primary contributing factor, followed closely by our own trains (though I preface this one by pointing out that many of those occurred while we waited for the clearance of a disabled freight train). Overall, most of the month's delays were train inference, which is why we continue to work diligently with our host railroad partners to look at how we can improve the core



# VIRGINIA RAILWAY EXPRESS

## Chief Executive Officer's Report



### On Time Performance (Continued)

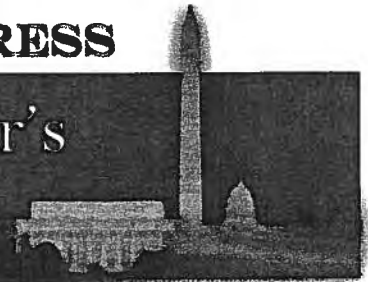
network to make performance even better. Again I need to preface that a delay while operating does not mean that the arrival of a train at its final destination will affect arriving "on time". For example, on February 22<sup>nd</sup>, VRE Train 308 (a north bound Fredericksburg train) experienced three delays during its run – 1 minute for passenger handling at Quantico, 2 minutes at Rippon for CSX speed restriction and then 5 minutes with slow signals following VRE Train 328 - but VRE Train 308 made up the difference and arrived in Union station on time.

SYSTEM-WIDE	DECEMBER	JANUARY	FEBRUARY
Total delays	14	23	20
Average length of delay (mins.)	37	34	37
Number over 30 minutes	6	8	8
Days with heat restrictions/Total days	0/19	0/21	0/19
On-Time Performance	98%	96%	96%
FREDERICKSBURG LINE			
Total delays	8	11	14
Average length of delay (mins.)	43	52	47
Number over 30 minutes	3	6	8
On-Time Performance	97%	96%	95%
MANASSAS LINE			
Total delays	6	12	6
Average length of delay (mins.)	28	18	8
Number over 30 minutes	3	2	0
On-Time Performance	98%	96%	98%



# VIRGINIA RAILWAY EXPRESS

## Chief Executive Officer's Report



### Ridership Update

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Average daily ridership for February 2013 was 19,374. That is 300 more daily trips than January 2013. While this is a very positive sign, February 2013 is slightly below February 2012 by about 150 daily trips. In researching this further, the glaring statistic is Friday service. We made 2,600 less passenger trips in February 2013 as we did in February 2012. There is no doubt that the increase in teleworking and telecommuting have directly affected this particular day. What does that mean? Conversely it means we're carrying more people on the rest of the days, particularly Tuesday, Wednesday and Thursday. For example, nine of the nineteen service days we carried more than 20,000 riders.

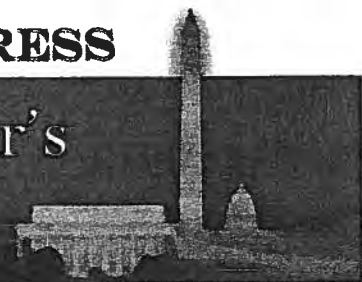
The table below seems to indicate that ridership was off but what you have to factor in is that there was one less service day, so you add another 20,000 day and the numbers are almost identical.

RIDERSHIP MONTH TO MONTH COMPARISON	
DESCRIPTION	MONTHLY RIDERSHIP
February 2013	368,110*
February 2012	391,952
SERVICE DAYS (CURRENT/PRIOR)	(19/20)
PERCENT CHANGE	-1.1% Normalized
*Amtrak Cross Honor numbers are estimations	



# VIRGINIA RAILWAY EXPRESS

## Chief Executive Officer's Report



### Monthly Citations Update

VRE ACTIONS	OCCURANCES
Waived- Passenger showed proof of a monthly ticket	30
Waived- Per the request of the issuing conductor	0
Waived- Due to defective tickets or TVM	0
TOTAL	30

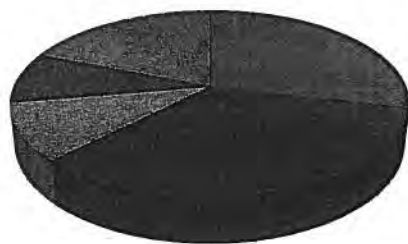
For the month of February, VRE issued a total of 130 citations. That number is one of the largest in recent history and a 40% increase from February 2012. Of those 130 citations issued, VRE waived 30 of them for our riders who showed proof of a monthly ticket. That means that 23% of all citations

issued during the month were waived by VRE, which also is slightly higher than the past few months.

Of the remaining 100 citations, 9 were found not guilty, 10 were dismissed and 9 were continued. This means that 72% of people issued citations were guilty of violating VRE's fare evasion policy.

While more riders were able to show proof for a waiver of their citation, nearly 5% more this month could not. VRE will continue to emphasize ticket enforcement. We successfully prosecuted a fraudulent ticket case and have another one on the docket for April. Continued ticket checks will deter those individuals who are attempting to ride VRE with counterfeit or fraudulent tickets.

### Fare Evasion Court Actions



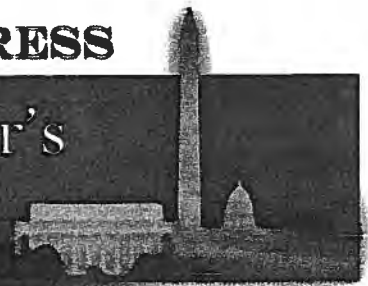
- Guilty in Absentia - 29
- Prepaid Prior to Court - 34
- Dismissed - 10
- Continued to Next Court Date - 9
- Not Guilty - 9
- Guilty - 10





VIRGINIA RAILWAY EXPRESS

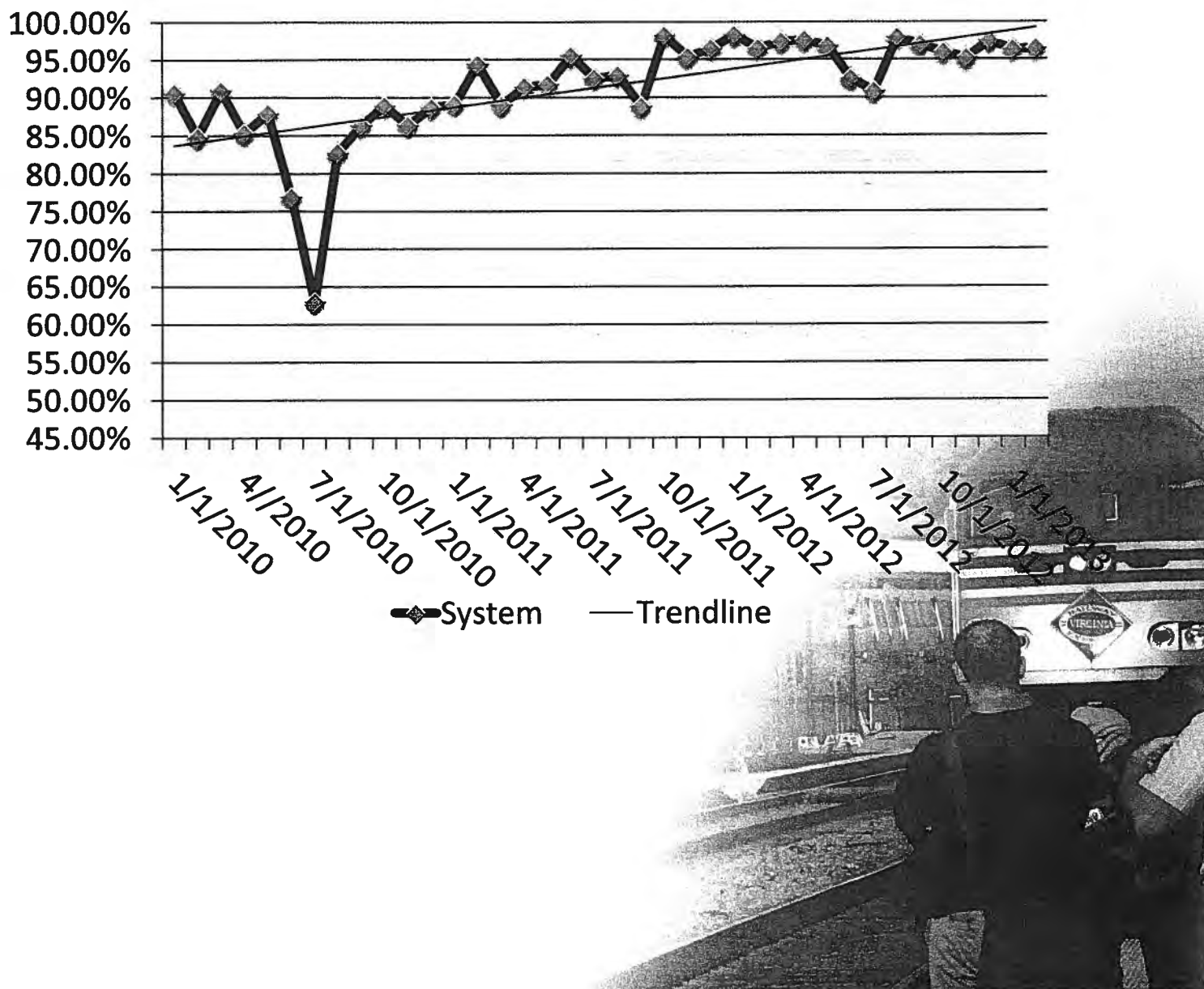
## Chief Executive Officer's Report



# On-Time Performance

## System Performance

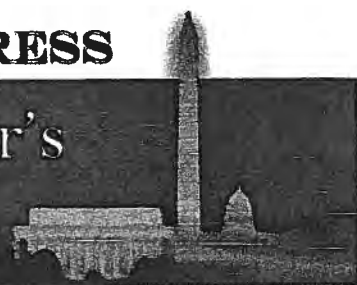
January 2010 – February 2013





# VIRGINIA RAILWAY EXPRESS

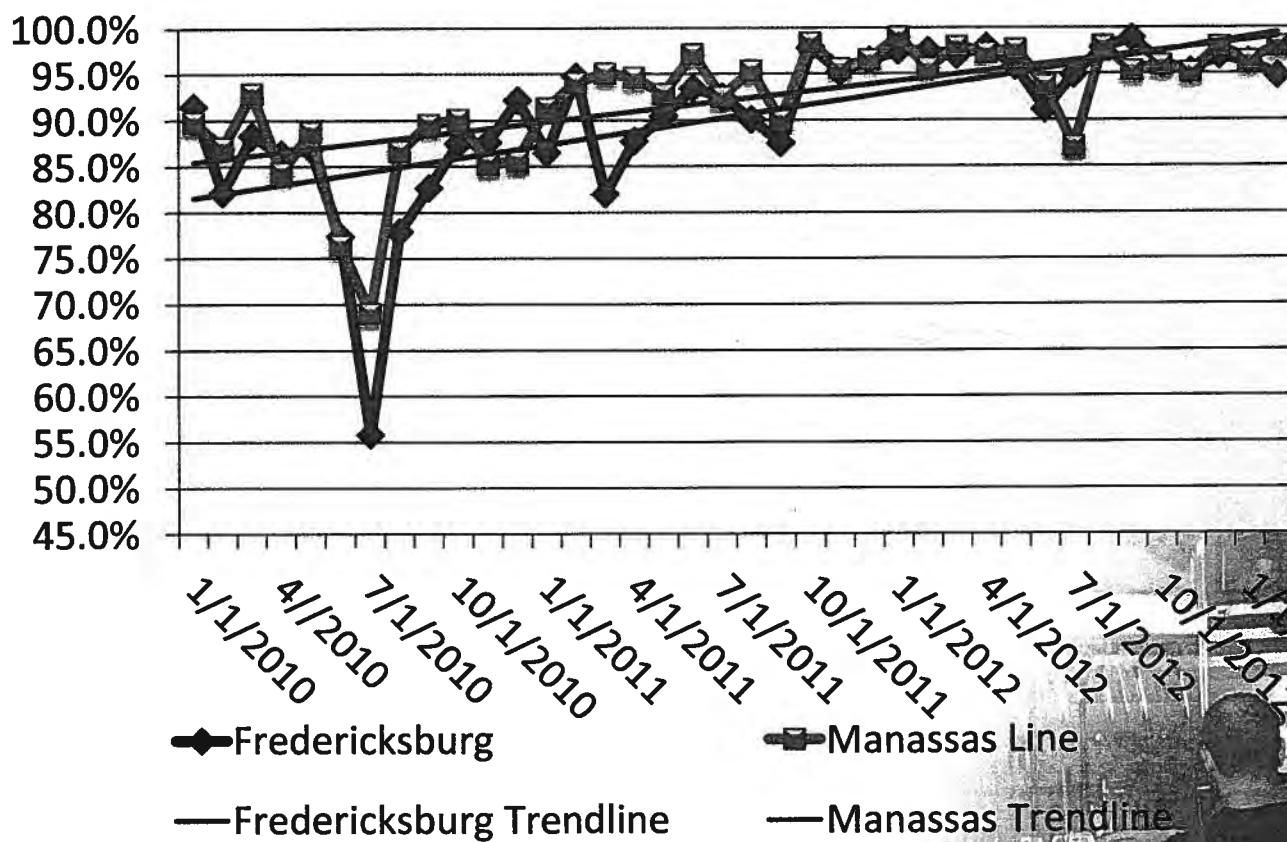
## Chief Executive Officer's Report



## On-Time Performance

### Performance by Line

January 2010 – February 2013





# VIRGINIA RAILWAY EXPRESS

## Chief Executive Officer's Report



# Ridership

## February

Date	Manassas AM	Manassas PM	Total Manassas	Actual OTP TD	Fred'burg AM	Fred'burg PM	Fred'burg Total	Actual OTP TD	Total Trips	Actual OTP TD
1	4,050	4,114	8,164	100%	4,565	4,179	8,745	100%	16,909	100%
2										
3										
4	4,565	4,485	9,050	100%	5,107	4,695	9,803	93%	18,853	97%
5	4,836	4,892	9,728	100%	5,197	5,267	10,464	100%	20,192	100%
6	4,767	5,409	10,175	94%	3,504	4,448	7,952	50%	18,127	73%
7	4,870	5,115	9,985	94%	5,076	5,141	10,217	100%	20,202	97%
8	4,076	3,826	7,902	94%	3,966	4,386	8,352	100%	16,254	97%
9										
10										
11	4,695	4,875	9,570	94%	4,913	5,008	9,921	100%	19,491	97%
12	4,867	5,041	9,908	100%	5,520	5,286	10,806	100%	20,714	100%
13	4,759	5,089	9,848	100%	5,269	5,023	10,292	100%	20,140	100%
14	4,731	4,501	9,233	100%	3,785	4,838	8,624	79%	17,857	90%
15	3,668	3,320	6,988	100%	4,017	3,968	7,985	100%	14,973	100%
16										
17										
18										
19	4,669	4,799	9,468	100%	5,462	5,347	10,809	100%	20,277	100%
20	4,746	5,015	9,761	100%	4,960	5,203	10,163	79%	19,924	90%
21	4,827	4,880	9,706	94%	5,331	5,394	10,725	100%	20,431	97%
22	4,127	3,906	8,033	0%	4,310	4,514	8,824	100%	16,857	100%
23										
24										
25	4,712	4,814	9,526	94%	5,004	4,972	9,976	100%	19,502	97%
26	4,754	5,229	9,982	100%	5,221	5,469	10,691	100%	20,673	100%
27	4,541	4,998	9,538	100%	5,149	5,416	10,564	100%	20,102	100%
28	4,512	5,100	9,612	100%	5,301	5,144	10,445	100%	20,057	100%
	86,771	89,406	176,177	98%	91,658	93,700	185,358	95%	361,535	96%

Amtrak Trains: 624  
Adjusted total: 176,801

Amtrak Trains: 5,951  
Adjusted Total: 191,309

Adjusted Total: 6,575  
Adjusted Total: 368,110

# of Service Days: 19  
Manassas Daily Avg. Trips: 9,272 Adjusted Avg.: 9305  
Fred'burg Daily Avg. Trips: 9,756 Adjusted Avg.: 10069  
Total Avg. Daily Trips: 19,028 Adjusted Avg.: 19,374

Total Trips This Month: 368,110  
Prior Total FY-2013: 2,660,835  
Total Trips FY-2013: 3,028,945  
Total Prior Years: 57,778,565  
Grand Total: 60,807,510



# VIRGINIA RAILWAY EXPRESS

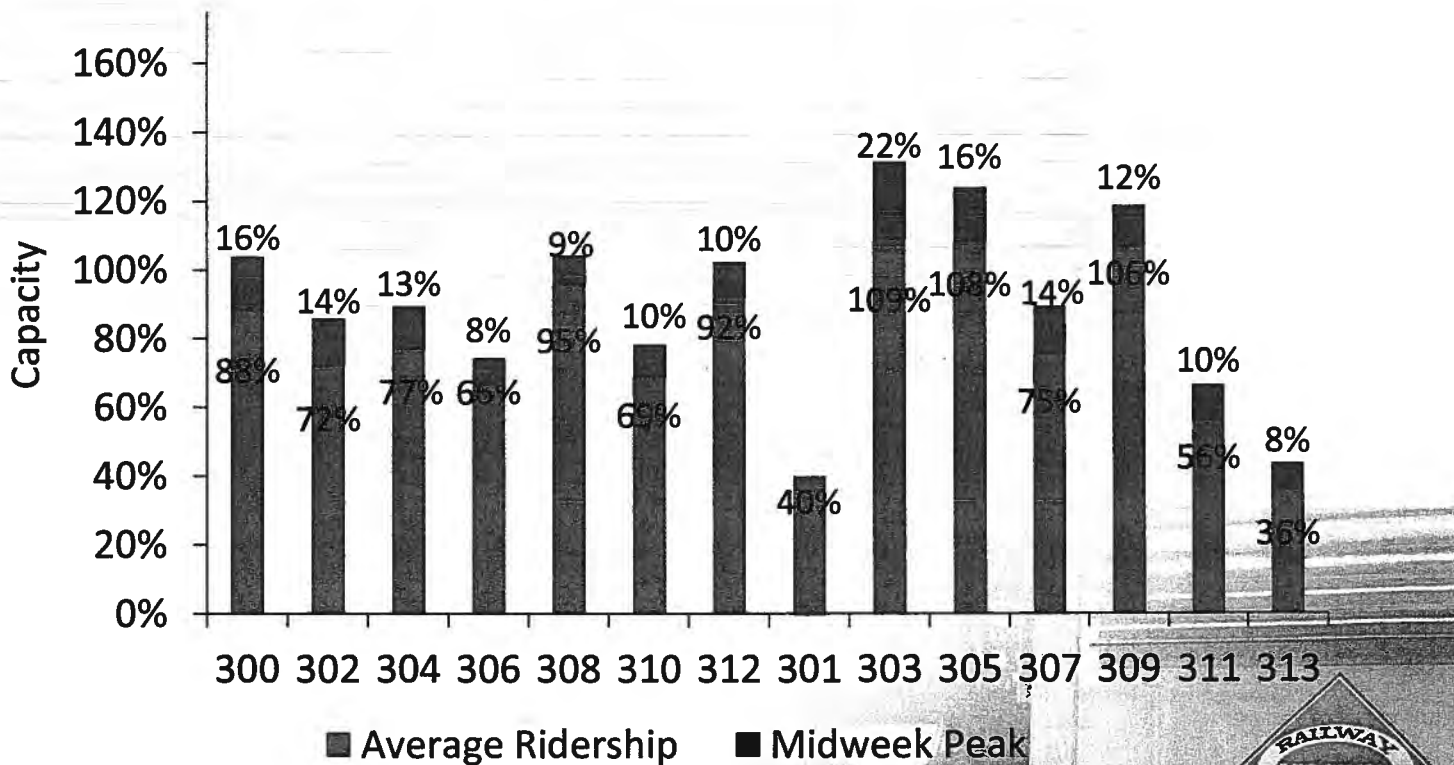
## Chief Executive Officer's Report



### Train Utilization

## Fredericksburg Line

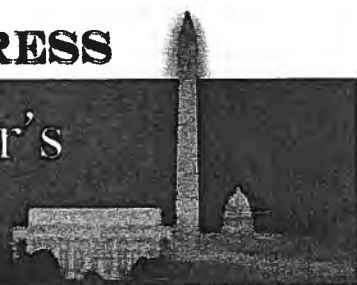
February 2013





**VIRGINIA RAILWAY EXPRESS**

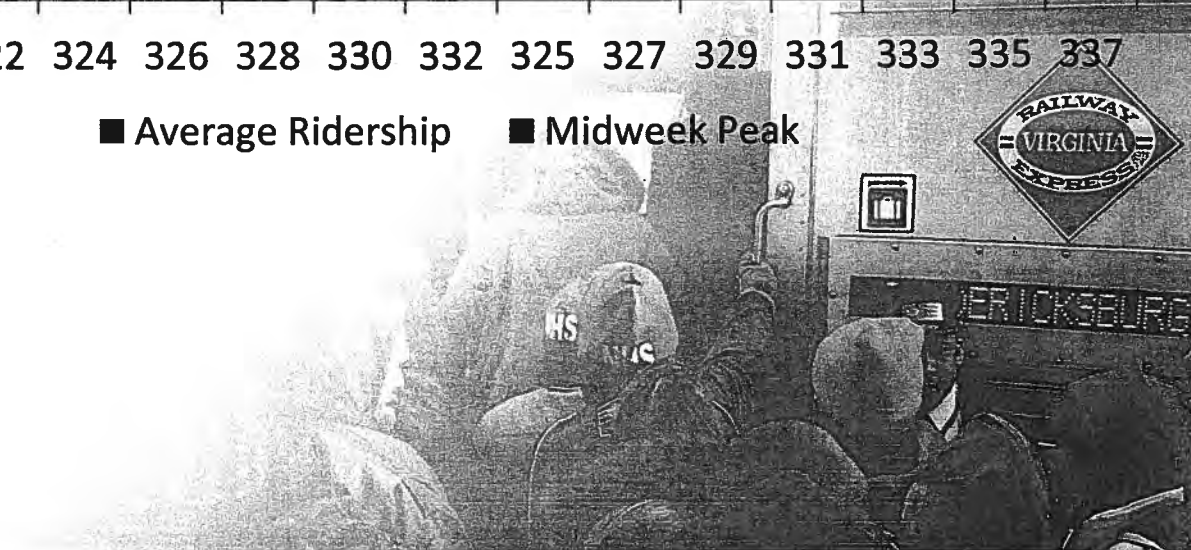
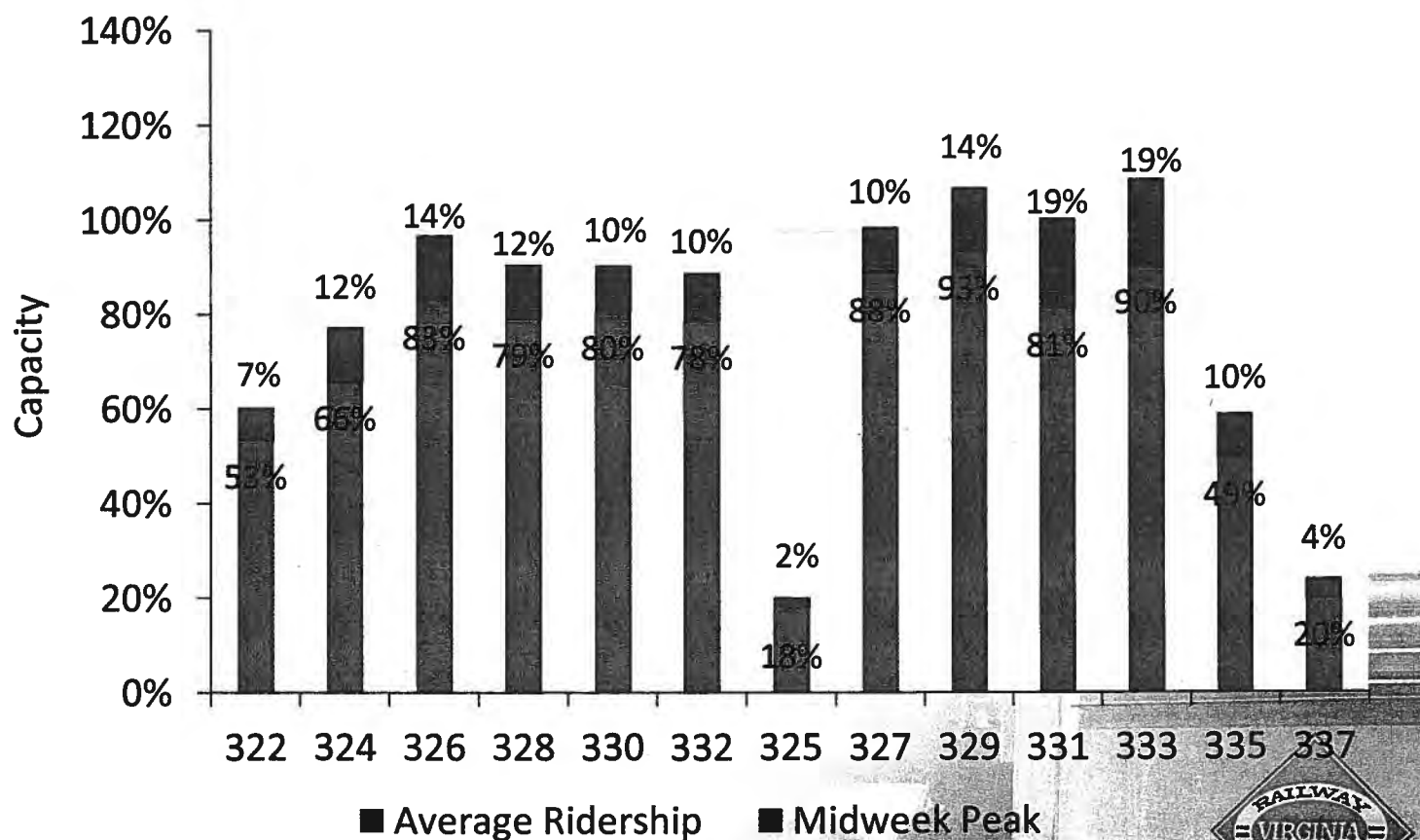
## Chief Executive Officer's Report



### Train Utilization

### Manassas Line

February 2013





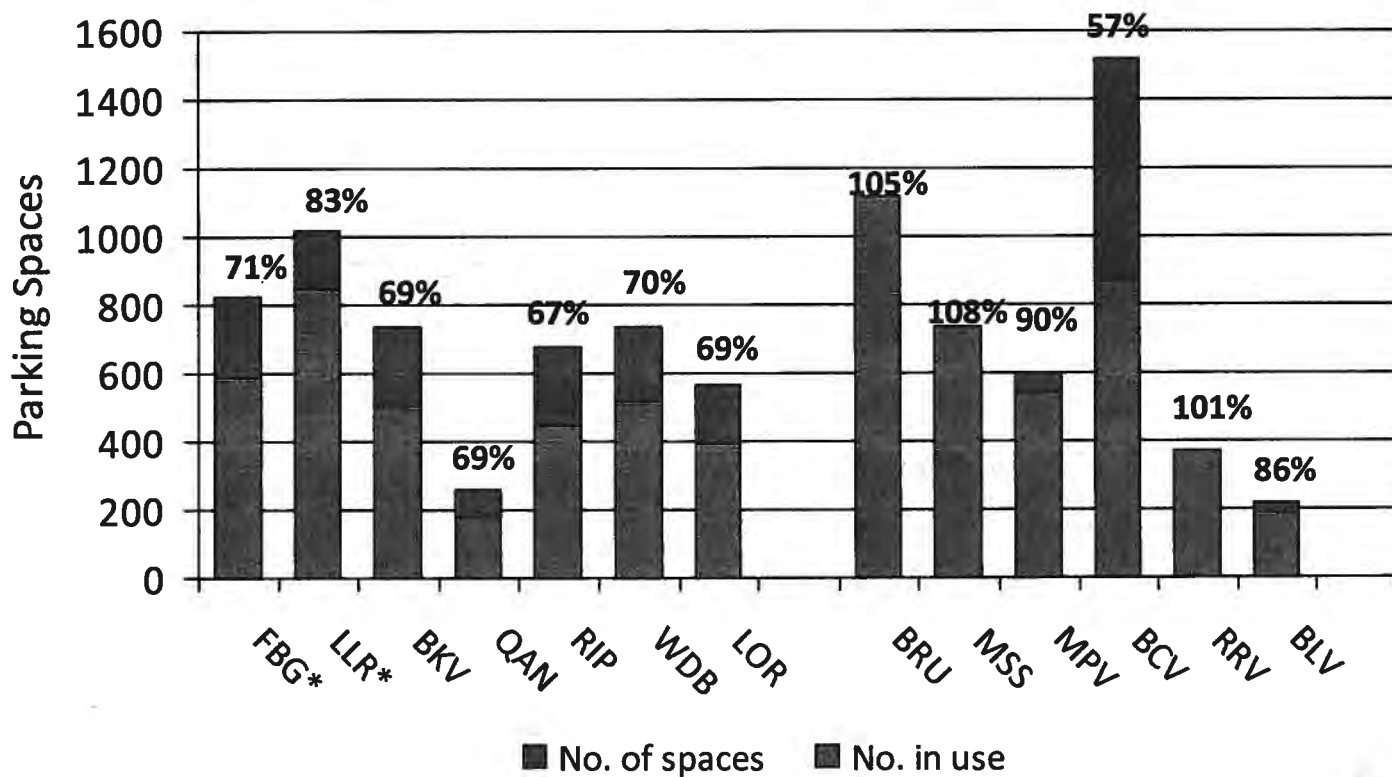


# VIRGINIA RAILWAY EXPRESS

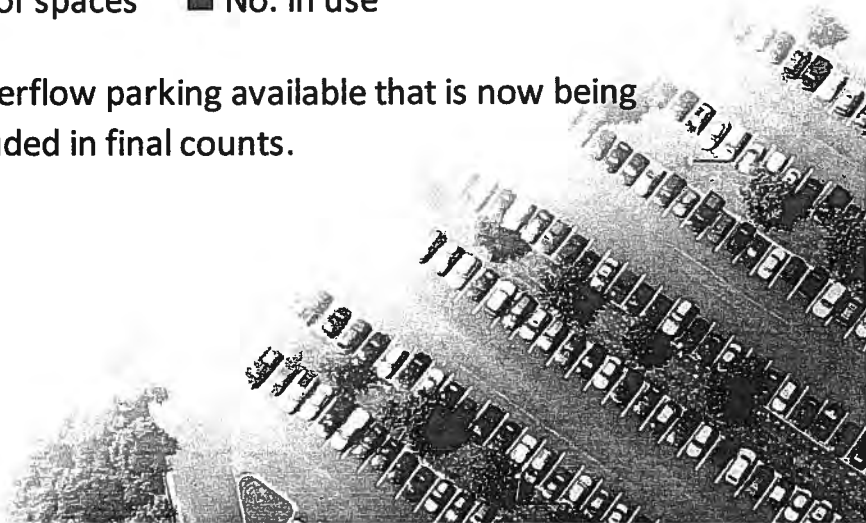
## Chief Executive Officer's Report



### Parking Utilization February 2013



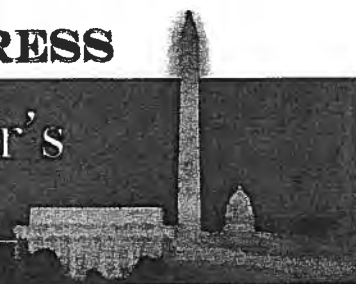
\* Denotes stations with overflow parking available that is now being included in final counts.





# VIRGINIA RAILWAY EXPRESS

## Chief Executive Officer's Report



# Financial Report

## February 2013

A copy of the February 2013 Operating Budget Report is attached.

Fare income for the month of February 2013 was \$254,106 above the budget – a favorable variance of 9.79%. The cumulative variance for the year is 0.87% or \$194,020 above the adopted budget. Revenue in the first eight months of FY 2013 is down 5.1% compared to FY 2012. Revenue will be monitored closely over the next several months to see if the reinstatement of the higher federal transit subsidy in January 2013 will reverse the trend toward lower average revenue per trip experienced in the early part of the fiscal year.

A summary of the financial results (unaudited) as of February 2013 follows. Detail on the major revenue and expense categories is provided in the attached Operating Budget Report. Amounts shown reflect the amended FY13 budget.

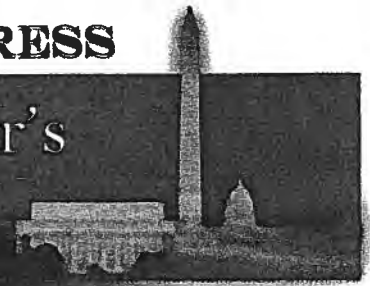
MEASURES	DOLLARS	GOAL	ACTUAL
Operating Ratio		55%	56%
Budgeted Revenue	79,814,561		
Budgeted Revenue YTD	58,455,980		
Actual Revenue YTD	58,738,911		
Cumulative Variance	282,931		282,931
Percent Collected YTD		73.24%	73.59%
Budgeted Expenses	79,814,561		
Budgeted Expenses YTD	52,139,355		
Operating Expenses YTD	48,967,964		
Cumulative Variance	3,171,391		3,171,391
Percent Expended YTD		65.33%	61.35%
Net Income (Loss) from Operations			3,454,322

These figures are preliminary and unaudited.



## VIRGINIA RAILWAY EXPRESS

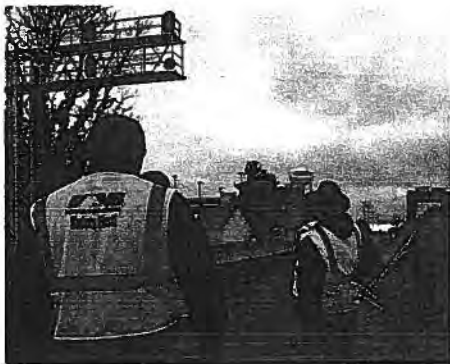
### Chief Executive Officer's Report



## RAIL OPERATIONS:

### Safety

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During the month of February, VRE's Safety and Security Department arranged a Threat and Vulnerability Assessment (TVA). This TVA will involve all VRE senior level staff and take a comprehensive look at the programs that are planned or already in place, rail and mechanical operations and facilities to determine where we should best focus our efforts to further secure VRE's system. The TVA will take place at the end of March.

In addition to the TVA, we've held very productive meetings during the month of February with TSA personnel. These individuals regularly assess VRE's system safety programs as well as provide periodic armed officer presence on our trains through the Visual Intermodal Prevention and Response (VIPR) program.

Lastly, VRE continues to partner with our host railroads and Keolis to ensure safe train handling practices. During periodic unannounced instances, host railroad staff manually adjust railroad signals to display slower speed indications to crews. We then test the response of the locomotive engineers to guarantee compliance. They all passed!

## GENERAL INFORMATION:

### Legislative Update

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The 2013 legislative session has concluded with the passage of a historic Transportation initiative.

#### Transportation Funding Package

After the House and Senate passed different transportation funding proposals, the conference committee came together and negotiated a new package. The Conference Report, which was ratified by both chambers, provides





## VIRGINIA RAILWAY EXPRESS

### Chief Executive Officer's Report



#### Legislative Update (Continued)

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approximately \$880 million for maintenance, construction, and transit over the course of the next five years by:

- ✓ Eliminating the 17.5 cents per gallon gas tax.
- ✓ Imposing a 3.5% wholesale gas tax and a 6% wholesale diesel tax.
- ✓ Increasing the automobile sales tax from 3% to 4.3%.
- ✓ Increasing the state sales tax from 5% to 5.3%
- ✓ Transferring an additional .175% (from .5% to .675%) of the state's portion of existing sales tax from the General Fund to transportation, phased in over five years.
- ✓ Increasing alternative fuel vehicles registration fee to \$100.
- ✓ Dedicating Marketplace Equity Act revenues (if enacted by Congress) – if legislation is not passed by Jan 1, 2015 then the wholesale gas tax would increase to 5.1%.

The Conference Report also has regional pieces for Northern Virginia and Hampton Roads. The Northern Virginia part is expected to raise \$300-350 million per year by:

- ✓ Imposing a .7% sales tax, to a total of 6% for Northern Virginia.
- ✓ Imposing a 3% Transient Occupancy Tax (hotel tax).
- ✓ Imposing a grantors tax of \$0.25 per \$100 valuation.

The Northern Virginia part also provides that for all revenue collected:

- ✓ 70% will be provided to Northern Virginia Transportation Authority (NTVA) for regional projects included in the regional transportation plan for reducing congestion, as well as mass transit capital projects that increase capacity.
- ✓ 30% will be given to the local jurisdictions for urban and secondary roads, capital improvements to reduce congestion, other projects approved in TransAction2040, or public transportation purposes.

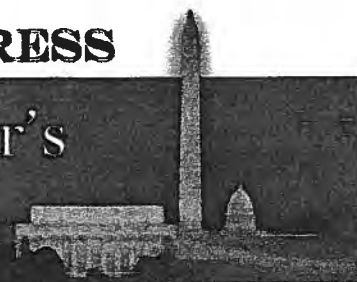
The Governor is expected to offer limited technical amendments to the legislation by the end of March before the General Assembly returns in April.

House Bill 2152, introduced by Delegate Richard Anderson, gave the Chairman of the Commonwealth Transportation Board or his designee equal voting weight on the Virginia Railway Express oversight board. The bill also provides that the Chairman of the Commonwealth Transportation Board or his designee shall be included for purposes of constituting a quorum on certain transportation commissions and shall have voting rights equal to the appointees of component governments. The measure ultimately passed and will go into effect July 1, 2014.



# VIRGINIA RAILWAY EXPRESS

## Chief Executive Officer's Report



### Legislative Update (Continued)

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House Bill 2297, introduced by Delegate Eileen Filler-Corn, would have allocated funds for contract fees paid by the Virginia Railway Express for access to CSX Transportation, Norfolk Southern Corporation, and the National Railroad Passenger Corporation. The funds were to be allocated from the public transportation portion of federal Surface Transportation Program funds. This legislation would finally codify what has been past practice of the past five Governors and General Assembly to include these funds in their respective budgets. The bill passed the House Transportation Subcommittee where it was reported to the full committee. Before the full House Transportation Committee Delegate Filler-Corn made a strong presentation for passage of the legislation, but the measure failed 11 to 10 when a Northern Virginia legislator changed his vote against the bill at the last second.

VRE Track Access Fees have successfully remained in the Governor's budget amendments.

### Meet the Management

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VRE's annual Meet The Management program will kick off on April 3 at 3:00 pm at Union Station. This year, in an effort to be more cost conscious, we will be holding the events at the five northern destination stations, meeting all afternoon trains.

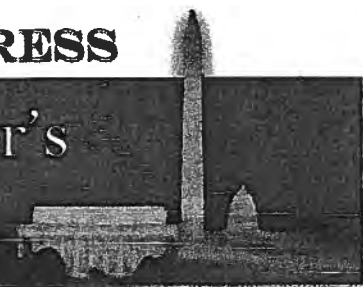
Locations, dates and times are listed in the table below. We have already invited representatives from our partner railroads and major vendors, and would love to see our Operations Board Members at the events as well. So, mark your calendars and come on out!

Date	Station	Time
April 3, 2013	Union Station	3:00 PM
April 17, 2013	L'Enfant	3:00 PM
May 1, 2013	Crystal City	3:15 PM
May 8, 2013	CS survey	CS survey
May 15, 2013	Alexandria	3:30 PM
June 5, 2013	Franconia-Springfield	3:30 PM



## VIRGINIA RAILWAY EXPRESS

### Chief Executive Officer's Report



#### Public Hearings/Public Comment Period

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We held our first of seven public hearings on Tuesday, March 5 in Burke. We had two riders come out and join us. After presenting the budget and budget guidelines, we sat with the riders who both ultimately saw our plight and understood the reasoning behind the needed fare increase. I wouldn't necessarily say that they were supportive, but certainly understood the rationale behind it and the need for the fare increase.

As for public comments, to-date we have received 47 e-mails to Public Comment. The general breakdown of the comments received so far are as follows:

- \*Question the justification for the increase? (We updated our website with an overview of VRE's needs and justification for the increase)

- \*Just did an increase last year

- \*Sequestration/most federal employees haven't received a raise in 3 years

- \*Overcrowding – hope increase will at least resolve that

- \*Ticket Checking – if VRE was more consistent in ticket checking, they wouldn't need to raise fares because there wouldn't be so many free loaders (see the same conductors day in and day out not checking or only doing a cursory inspection and then not writing a summons if they do find someone without a valid ticket).

- \*Transit subsidy went up, but many agencies did not implement the increase and have left it at \$125

- \*VRE is instituting a fare increase only because of the transit subsidy increase.



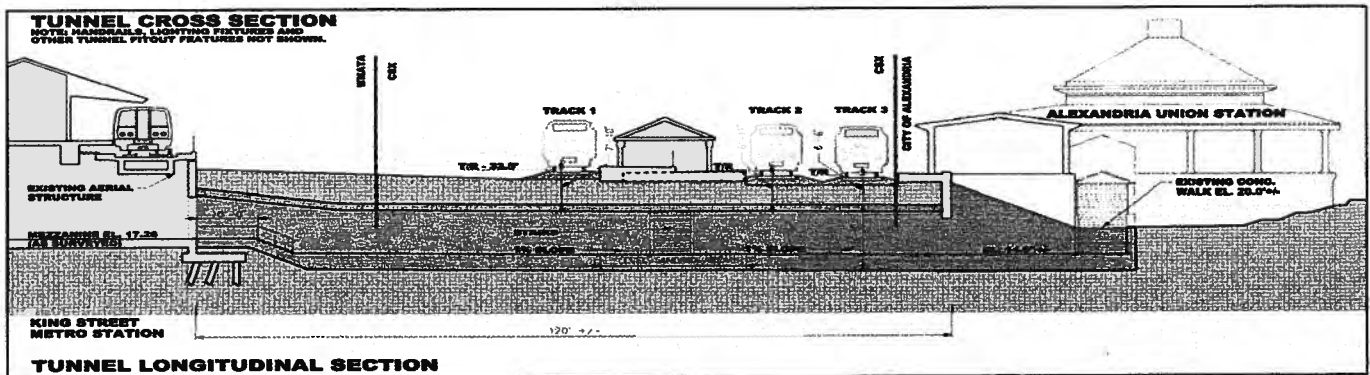
# VIRGINIA RAILWAY EXPRESS

## Chief Executive Officer's Report



### CAPITAL PROJECTS:

#### Alexandria



**TUNNEL UPDATE:** VRE has completed the feasibility study and distributed the draft report to stakeholders for comment. Comments have been received and the report is now being finalized. On February 22, 2013, VRE met with VDOT and the City of Alexandria to discuss next steps and possibility of additional funding. With the limited engineering performed to date, the cost is approximately \$1 to \$2 million above the available budget. Parties agreed to move forward with further engineering in order to develop more accurate cost estimates. In the next few months, VRE will continue to collect geotechnical and utility information setting the base work for final design to begin in June.

#### Spotsylvania

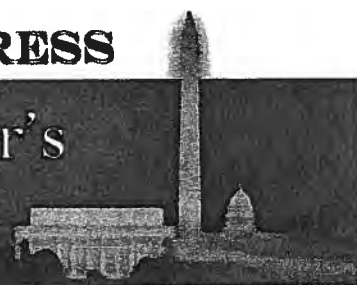
**Third Track and Station:** The design for both the station and third track is in the final stages. Design is expected to be completed by April once CSX has performed sufficient signal designs to allow the civil design to be completed. Once the design is complete, it will be issued for





## VIRGINIA RAILWAY EXPRESS

### Chief Executive Officer's Report



#### Spotsylvania (Continued)

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bidding in April in order to allow for construction to begin in June. Currently, VRE and CSX are coordinating their efforts in order to relocate utilities and develop the necessary agreements that will support construction starting on time. VRE is also working with DRPT and FTA to finalize funding agreements that will support the construction contracts being awarded in May.

#### Franconia/Springfield

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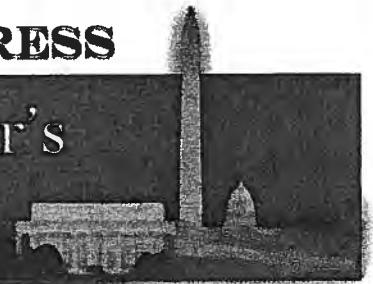


As the weather improves, the renovations at Franconia/Springfield will progress quickly towards completion. By the end of this month, the concrete stairs will be in place along with most of the glass. The renovations will be finished with primer and paint in order to allow the facility to reopen in April.



**VIRGINIA RAILWAY EXPRESS**

## Chief Executive Officer's Report



### **Capital Project Summary**

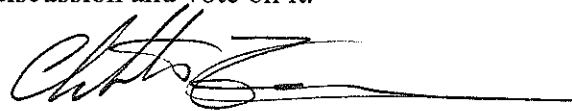
# **February 2013**

## **See attachments**



DISCLOSURE OF PERSONAL INTEREST  
AND WITHDRAWAL FROM PARTICIPATION

Agenda Item 9-B concerns the award of a general engineering services contract to several engineering firms including AECOM. Within the past six months, I have been asked to provide consulting services on an occasional basis for a Canadian company that is a subsidiary of AECOM. As a consequence, while I am advised that the State and Local Government Conflict of Interests Act may not necessarily prohibit me from participating in the Operations Board's consideration of this matter, I have chosen to not do so and will not participate in the Board's discussion and vote on it.

A handwritten signature in black ink, appearing to read 'Chris Zimmerman', with a long horizontal line extending to the right.

Chris Zimmerman  
March 15, 2013

**CHAIRMAN SMEDBERG AND THE VRE OPERATIONS BOARD**

**FROM: DOUG ALLEN**  
**DATE: MARCH 15, 2013**  
**RE: AUTHORIZATION TO ISSUE AN IFB FOR CONSTRUCTION OF THE**  
**SPOTSYLVANIA STATION PROJECT**

**RESOLUTION**  
**8A-03-2013**  
**OF THE**  
**VIRGINIA RAILWAY EXPRESS**  
**OPERATIONS BOARD**


**WHEREAS**, Spotsylvania County requested that VRE assume project management responsibility for the platform and head-house portions of the new station project; and,

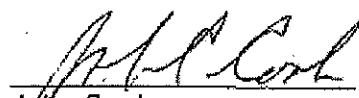
**WHEREAS**, the project will be constructed in coordination with the Crossroads to Hamilton Third Track project; and,

**WHEREAS**, authorization is required in order to meet an aggressive project schedule and complete construction by the end of this year.

**NOW, THEREFORE, BE IT RESOLVED THAT**, the VRE Operations Board authorizes the Chief Executive Officer to issue an Invitation for Bids (IFB) for the construction of the Spotsylvania VRE station project.

Approved this 15th day of March, 2013.

  
Paul Smedberg  
Chairman

  
John Cook  
Secretary



TO: CHAIRMAN SMEDBERG AND THE VRE OPERATIONS BOARD  
FROM: DOUG ALLEN  
DATE: MARCH 15, 2013  
RE: AUTHORIZATION TO ISSUE AN IFB FOR CONSTRUCTION OF THE  
CROSSROADS TO HAMILTON THIRD TRACK PROJECT

RESOLUTION  
8B-03-2013  
OF THE  
VIRGINIA RAILWAY EXPRESS  
OPERATIONS BOARD


WHEREAS, VRE began design in January of 2011 and the plans are expected to be finalized in April and bids to be received in May; and,

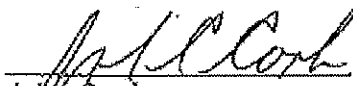
WHEREAS, the project will be constructed in coordination with the Spotsylvania Station project; and,

WHEREAS, authorization is required in order to meet an aggressive project schedule and allow the new Spotsylvania Station to be opened by the end of this year.

NOW, THEREFORE, BE IT RESOLVED THAT, the VRE Operations Board authorizes the Chief Executive Officer to issue an Invitation for Bids (IFB) for the construction of the Crossroads to Hamilton Third Track (Spotsylvania Track) project.

Approved this 15th day of March, 2013.

  
Paul Smedberg  
Chairman

  
John Cook  
Secretary

TO: CHAIRMAN SMEDBERG AND THE VRE OPERATIONS BOARD  
FROM: DOUG ALLEN  
DATE: MARCH 15, 2013  
RE: AUTHORIZATION TO ISSUE A TASK ORDER TO STV FOR  
ENGINEERING AND OVERSIGHT WORK FOR PTC  
IMPLEMENTATION

RESOLUTION  
9A-03-2013  
OF THE  
VIRGINIA RAILWAY EXPRESS  
OPERATIONS BOARD

WHEREAS, VRE has a Contract with STV, Inc. for Mechanical and Engineering Services (MEC V); and,


WHEREAS, VRE is mandated to implement Positive Train Control (PTC) by the Rail Safety Improvement Act of 2008 by December 31, 2015; and,

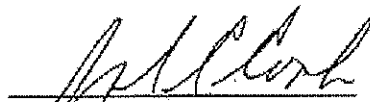
WHEREAS, VRE is working with CSX and Norfolk Southern to implement PTC ahead of the deadline; and,

WHEREAS, STV will provide the next phase of engineering and oversight work to accommodate the implementation of the required on-board PTC equipment and system applications.

NOW, THEREFORE, BE IT RESOLVED THAT, the VRE Operations Board authorizes the Chief Executive Officer to issue a task order to STV, Inc., under the MEC V contract to provide for engineering and oversight work for PTC implementation in the amount not to exceed \$550,645, plus a 10% contingency, for a total contract value of \$605,710.

. Approved this 15th day of March, 2013.

  
Paul Smedberg  
Chairman

  
John Cook  
Secretary

TO: CHAIRMAN SMEDBURG AND THE VRE OPERATIONS BOARD  
FROM: DOUG ALLEN  
DATE: MARCH 15, 2013  
RE: AUTHORIZATION TO AWARD GENERAL ENGINEERING  
CONSULTING SERVICES CONTRACTS

RESOLUTION  
9B-03-2013  
OF THE  
VIRGINIA RAILWAY EXPRESS  
OPERATIONS BOARD

WHEREAS, past general engineering needs for the VRE have included civil project work, technical report writing and research and planning; and,

WHEREAS, the period of the existing contracts will expire on March 31, 2013 and the total authorization of \$5,000,000 is close to being reached; and,

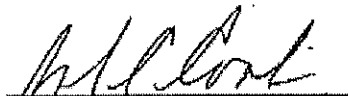
WHEREAS, eleven proposals were received on November 13, 2012 and an evaluation committee was formed to evaluate them; and,

WHEREAS, AECOM, STV, Gannett Fleming, Michael Baker and Parsons Brinkerhoff are the firms being recommended for award.

NOW, THEREFORE, BE IT RESOLVED THAT, the VRE Operations Board authorizes the Chief Executive Officer to award general engineering consulting (GEC) services contracts for a term of five years and in a cumulative value of up to \$5,000,000.

Approved this 15th day of March, 2013.

  
Paul Smedberg  
Chairman

  
John Cook  
Secretary

**RESOLUTION  
9C-03-2013  
OF THE  
VIRGINIA RAILWAY EXPRESS  
OPERATIONS BOARD**

**WHEREAS**, prior to July 1, 2008 the state Division of Risk Management (DRM) was responsible for procuring insurance coverage for the operation of the Virginia Railway Express, as an adjunct to their duties under the Commuter Rail Operations Liability Insurance Plan; and,

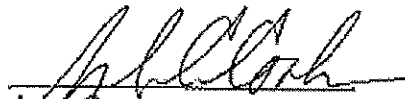
**WHEREAS**, VRE and DRM agreed that this function could be more efficiently handled by VRE; and,


**WHEREAS**, in April 2008, VRE entered into an agreement with Aon Risk Services for brokerage services for the five year period ending June 30, 2013; and,

**WHEREAS**, a competitive solicitation for insurance brokerage services was conducted for the five-year period beginning July 1, 2013.

**NOW, THEREFORE, BE IT RESOLVED THAT**, the VRE Operations Board recommends that the Commissions authorize the Chief Executive Officer to enter into a three year contract, with two additional one-year options, with Aon Risk Services, Inc., of Maryland, for the provision of insurance brokerage services. The total contract value will not exceed \$645,000 over the five-year period.

Approved this 15th day of March 2013

  
John Cook  
Secretary

  
Paul Smedberg  
Chairman

Insurance Brokerage Services for VRE.

The VRE Operations Board recommends approval of Resolution #2214. This resolution approves a three-year contract, with two additional one-year options, with Aon Risk Services, Inc., of Maryland, for the provision of insurance brokerage services. The total contract value will not exceed \$645,000 over the five-year period.



## **RESOLUTION #2214**

**SUBJECT:** Insurance Brokerage Services for VRE.

**WHEREAS:** Prior to July 1, 2008, the state Division of Risk Management (DRM) was responsible for procuring insurance coverage for the operation of the Virginia Railway Express, as an adjunct to DRM's duties under the Commuter Rail Operations Liability Insurance Plan;

**WHEREAS:** VRE and DRM agreed that this function could be more efficiently handled by VRE;

**WHEREAS:** In April 2008, VRE entered into an agreement with Aon Risk Services for brokerage service for the five-year period ending June 30, 2013; and,

**WHEREAS:** A competitive solicitation for insurance brokerage services was conducted by VRE for the five-year period beginning July 1, 2013 and the VRE Operations Board has recommended Aon Risk Services, Inc.

**NOW, THEREFORE BE IT RESOLVED** that the Northern Virginia Transportation Commission authorizes the VRE Chief Executive Officer to enter into a three-year contract, with two additional one-year options, with Aon Risk Services, Inc., of Maryland, for the provision of insurance brokerage services. The total contract value will not exceed \$645,000 over the five-year period.

Approved this 4<sup>th</sup> day of April, 2013.

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Jeffrey McKay  
Chairman

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David Snyder  
Secretary-Treasurer



AGENDA ITEM #3

**TO:** Chairman McKay and NVTC Commissioners  
**FROM:** Rick Taube  
**DATE:** March 28, 2013  
**SUBJECT:** Designation of NVTC Signatories and Pension Trustees

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NVTC should adopt the attached resolution #2215. The resolution will establish that the Executive Director is eligible to sign NVTC documents (including financial transactions) and to serve as a trustee of NVTC's Employees' Pension Trust.



## **RESOLUTION #2215**

**SUBJECT:** Designation of NVTC Signatories and Pension Trustees.

**WHEREAS:** Kelley Coyner has joined NVTC as its Executive Director; and

**WHEREAS:** NVTC desires that the person serving as Executive Director should be designated as an official signatory as well as a pension trustee.

**NOW, THEREFORE BE IT RESOLVED** that the Northern Virginia Transportation Commission hereby selects the following persons to serve as NVTC signatories (who are eligible to sign individually for any transaction of less than \$5,000 and with one other signatory for transactions of \$5,000 or greater):

Hon. David Snyder  
Kelley Coyner  
Scott C. Kalkwarf

Secretary-Treasurer  
Executive Director  
Director of Finance and Administration

**BE IT FURTHER RESOLVED** that the individuals listed above shall serve as NVTC employees' pension trustees, with the addition of NVTC's Assistant Financial Officer, Colethia Quarles.

Approved this 4<sup>th</sup> day of April, 2013.

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Jeffrey McKay  
Chairman

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David Snyder  
Secretary-Treasurer





AGENDA ITEM #4

**TO:** Chairman McKay and NVTC Commissioners  
**FROM:** Kala Quintana  
**DATE:** March 28, 2013  
**SUBJECT:** Legislative Items

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On March 25, 2013, Governor McDonnell proposed amendments for the transportation funding bill (HB 2313), budget, and other bills, which will be considered by the General Assembly during the veto session on April 3, 2013. If the amendments made by the Governor are accepted and the legislation is approved during the veto session then the revenue components of the bill will go into effect July 1, 2013.

**HB 2313 (Transportation Funding Bill)**

HB 2313, as amended by the Governor, contains statewide and regional revenue components that will provide roughly \$840 million annually for transportation funding by FY2018 as well as a regional component for Northern Virginia which will provide another \$300 - \$350 million annually.

On March 13, 2013 the Northern Virginia Transportation Authority (NVTA) provided suggestions for several technical amendments. Of significant concern was language which stated that if the General Assembly or any locality misused the new revenues, then the entire piece of legislation would expire. The Governor modified the language in accordance with the guidance from NVTA so that the only the offending locality would be penalized. However, the provision which applies to the General Assembly is still in place, which states the funding would expire if the funds are redirected or not used for transportation purposes.

Included with this memo:

- NVTA's letter to the Governor outlining the suggested technical amendments
- Virginia Transit Association's letter to the Governor outlining regarding less transit funding in FY2015 and beyond if the Marketplace Equity Act is not passed by Congress
- Letter from the Governor to the General Assembly leadership
- "Key Points" memo from the Governor for the upcoming veto session
- HB 2313 Conference Report revenue chart
- Governor's Substitute revenue chart
- Line-by-line chart of the Governor's "Summary of Amendments"

### Summary of Governor's Substitute

- \$1.5 Billion (est.) over 5 years
- Regional Taxes - Makes regional taxes applicable to any Planning District Commission in Virginia meeting specific thresholds including population, registered vehicles and transit ridership. Currently, only Northern Virginia and Hampton Roads meet these criteria. This amendment was added to address concerns of constitutionality expressed in an opinion by Attorney General Ken Cuccinelli.
- Motor Vehicle Sales Tax - Reduces from 4.3% to 4.15%. (Reduces 5-year statewide projection by about \$50 million to \$1.144 billion.)
- Hybrid/Alternate Fuel Vehicle Fee - Reduces from \$100 to \$64 per year to be more in line with estimated impact/cost to road network. (Reduces 5-year projections by about \$30 million from \$86 million to \$56 million.)
- Regional Transient Occupancy/Hotel Tax (TOT) - Reduces from 3% to 2%. This issue was of particular concern to Arlington and Alexandria who have a significant percentage of the region's hotel rooms. (Reduces 5-year projection in NV by \$71 million from \$215 million to \$144 million.)
- Regional Grantor's Tax - Reduces fee from \$0.25/\$100 to \$0.15/\$100. (According to the Governor's statements the administrations original rate calculation based on \$0.25 was incorrect. \$0.15/\$100 produces same \$30 million/yr in Northern Virginia.)
- State taxes/fees expire if General Assembly appropriates taxes/fees for non-transportation purposes. Any locality appropriating local HB 2313 transportation taxes/fees for non-transportation purposes also loses such revenue for the following year.

### **Governor's Budget Amendments**

The Governor has proposed one amendment to the budget pertaining to VRE's track lease payments that gives more flexibility to DRPT in funding rail leasing costs. DRPT states that they are providing payments through normal funding channels and there is no need to dedicate a particular funding source to VRE in order to cover the state's funding requirement.

### **HB 2152 (VRE weighted voting)**

The Governor signed into law, without any changes. The bill has a delayed enactment of July 1, 2014.

### **SB 1140 (Transit Metrics bill)**

The Governor signed into law, without any changes.

Staff will provide additional legislative updates at the April 4, 2013 Commission Meeting.



# Northern Virginia Transportation Authority

*The Authority for Transportation in Northern Virginia*

4031 University Drive ♦ Suite 200 ♦ Fairfax, VA 22030

[www.TheNoVaAuthority.org](http://www.TheNoVaAuthority.org)

March 13, 2013

The Honorable Robert F. McDonnell, Governor  
Patrick Henry Building, 3rd Floor Comments on HB 2313  
1111 East Broad Street  
Richmond, Virginia 23219

Subject: Comments on HB 2313, Transportation Funding Bill

Dear Governor McDonnell:

On behalf of the Northern Virginia Transportation Authority (NVTA), I want to thank you and our General Assembly delegation for the efforts to secure new transportation funding for Northern Virginia and the Commonwealth. We applaud your collective efforts and deeply appreciate your willingness to work together towards providing the resources necessary to address our transportation infrastructure and capacity needs, which are vital to the economic health of our region.

The work done by you and the General Assembly in passing this legislation (HB 2313) is of historical significance in moving transportation in Northern Virginia forward. We do, however, have concerns that some provisions in the bill limit the NVTA's ability to fully act in accordance with its authorized duties, such as allocating funds to regional transportation projects at its discretion, and setting transportation priorities based on various criteria included in the NVTA's authorizing legislation, such as reducing delays and improving travel times, safety, and air quality.

On March 8, 2013, the NVTA met to discuss HB 2313 and next steps for the region. We are concerned that the bill includes language that will make it difficult for the NVTA and our member jurisdictions to implement some of the bill's regional provisions. Following extensive discussion, the NVTA approved the attached recommended amendments to HB 2313. The amendments fall into five specific areas that are described below:

- The first amendment is purely technical in nature. A reference to the previous subdivision in the bill is necessary to clarify language pertaining to the distribution of revenue to localities.
- HB 2313 limits the NVTA's ability to fund roadway improvements to those projects included in the NVTA's adopted regional transportation plan (TransAction 2040) that have also been rated by the Virginia Department of Transportation (VDOT) in terms of their ability to reduce congestion and address emergency evacuation. As provided in HB 599/SB 531 (2012), VDOT is undertaking a study to evaluate and rate significant projects in Northern Virginia to meet the congestion relief and emergency evacuation provisions of the legislation; however, the study is expected to take 18 months to complete. We don't believe it was the intent of the legislation to wait 18 months to begin working on roadway projects. Accordingly, we are proposing an amendment to allow the NVTA to move forward with up to 11 road improvement projects prior to the completion of VDOT's effort. This initial set of projects would be drawn from TransAction 2040 as required, and would include projects in the region's Constrained Long Range Plan, which has previously been the subject of

public comments and approval by the National Capital Region Transportation Planning Board, which includes local and state representatives. It is our strong belief that a specific list of projects should not be written into the legislation.

- As you know, transit plays a significant role in our transportation system in Northern Virginia. Two of our largest transit providers are the Washington Metropolitan Area Transit Authority and the Virginia Railway Express. Both of these providers serve areas beyond the boundaries of the NVRTA. As passed by the General Assembly, HB 2313 would prohibit the new regional funding from being used for projects such as expanding a VRE storage yard or purchasing additional VRE or Metrorail cars. We believe that this language needs to be broadened to address this issue.
- While we understand the purpose of the maintenance-of-effort provision in the bill, as worded, this provision creates significant problems for several of our member jurisdictions. One problem stems from at least one jurisdiction having a very active road bond construction program over the past several years, which will be ending in 2013. This jurisdiction has no voter approval to continue the program beyond this year. Several other jurisdictions have spikes in transportation expenditures in FY 2013, including for a periodic bus purchase and a large revenue sharing match. As a result, we are recommending that bond funds be excluded from the maintenance-of-effort calculation and that a five-year average be used to calculate the level that must be maintained. In addition, we would recommend language intended to clarify that state and federal grant expenditures are not included in these calculations.
- HB 2313 includes a provision mandating that if the Commonwealth, the NVRTA, Hampton Roads, or any of the local jurisdictions use any of the funding raised for anything other than transportation purposes, the revenue sources expire. While we support the concept, we are concerned that the misdeeds of any single jurisdiction could cause the Commonwealth, the NVRTA and all other jurisdictions to suffer. This could put any bonds that might be supported by this revenue at risk. To resolve this issue, we would request that the misappropriation language and consequences be specific to individual jurisdictions.

We request that you submit amendments that will correct these issues and allow our region to move forward.

We look forward to working with the Commonwealth to begin to implement new transportation capacity improvements to relieve congestion in Northern Virginia and ensure the economic health of our region and the Commonwealth. If you have any questions or would like to discuss any of the comments, please contact me at (703) 792-4620. Again, thank you for efforts to address our region's transportation funding needs.

Sincerely,



Martin E. Nohe  
Chairman

Attachment

Cc: Members, Northern Virginia Transportation Authority  
Members, Northern Virginia Delegation, Virginia General Assembly  
The Honorable Sean T. Connaughton, Secretary of Transportation

Proposed Edits to HB 2313ERLines 76-85

2. If a locality has not deposited into its special fund (i) revenues from the tax collected under § 58.1-3221.3 pursuant to the maximum tax rate allowed under that section or (ii) an amount, from sources other than moneys received from the Authority, that is equivalent to the revenue that the locality would receive if it was imposing the maximum tax authorized by § 58.1-3221.3, then the amount of revenue distributed to the locality pursuant to subdivision 1 shall be reduced by the difference between the amount of revenue that the locality would receive if it was imposing the maximum tax authorized by such section and the amount of revenue deposited into its special fund pursuant to subdivision (i) or (ii), as applicable. The amount of any such reduction in revenue shall be redistributed according to subsection C. The provisions of this subdivision shall be ongoing and apply over annual periods as determined by the Authority.

Lines 86-97

C. 1. The remaining ~~60%~~ 70 percent of the revenues from such sources received by the Authority under subsection A, plus the amount of any revenue to be redistributed pursuant to subsection B, shall be used by the Authority solely for transportation projects and purposes that benefit the counties and cities embraced by the Authority to fund (i) transportation projects selected by the Authority that are contained in the regional transportation plan in accordance with § 15.2-4830 and that have been rated in accordance with § 33.1-13.03:1 or (ii) mass transit capital projects that increase capacity. The requirement for rating in accordance with § 33.1-13.03:1 shall not apply to an initial list of no more than 11 projects identified by the Authority by October 1, 2013. The Authority shall give priority to selecting projects that are expected to provide the greatest congestion reduction relative to the cost of the project and shall document this information for each project selected. Such projects selected by the Authority for funding shall be located (a) only in localities embraced by the Authority or (b) may extend into ~~in~~ adjacent localities but only to the extent that such extension is an insubstantial part of the project and is essential to the viability of the project within the localities embraced by the Authority, and (c) with regard to mass transit projects, only in localities embraced by the Authority, and in localities in adjacent planning districts or transportation districts, and in jurisdictions in the same metropolitan area in which one or more localities embraced by the Authority are located but only when the project constitutes an improvement to an existing mass transit system, which improvement is essential to the operation of the mass transit system and increases the capacity of the mass transit system within the localities embraced by the Authority.

Lines 2626-2632

10. That each county or city embraced by the Northern Virginia Transportation Authority shall expend or disburse for transportation purposes an amount that is at least equal to the total amount, excluding bond proceeds and debt service payments, and state and federal grants, expended or disbursed for transportation purposes by the county or city ~~in its~~ on average for the fiscal years that began on July 1, 2008 through July 1, 2012. Each county or city embraced in the Hampton Roads Region, as described in subsection B of § 33.1-23.5:3, shall expend or disburse for transportation purposes an amount that is at least equal to the total amount expended or disbursed for transportation purposes by the county or city in its fiscal year that began on July 1, 2007.

Lines 2643-2647

Delete:

14. That the provisions of this act that generate additional revenue through state taxes or fees imposed only in Northern Virginia and in the Hampton Roads area shall expire on December 31 of any year in which the General

**Assembly, any locality, or any Authority appropriates any of such revenues for any non-transportation-related purpose or for any project outside the geographic boundaries provided in this act.**

Insert:

**14. Should either the Northern Virginia Transportation Authority or the Hampton Roads Region appropriate any of their respective revenues generated by the implementation of this Act for any non-transportation related purpose or for any project located outside either Authority's respective geographic boundaries, except as may be authorized by this Act, then the revenue generating provisions of this Act shall expire as to the non-compliant Authority or Region on December 31 of any year in which such non-complying appropriation is made. Should any locality which is a member of the Northern Virginia Transportation Authority or any locality which is contained in the Hampton Roads Region, as defined by this Act, appropriate any revenues for any non-transportation related purpose or for any project located outside that locality's geographical borders, except as may be authorized by this Act, then such localities shall not be entitled to receive any allocation of any revenue generated by § 15.2-4838.1 (B) or § 15.2-4838.1 (C) as of December 31 of any year in which such non-complying appropriation is made and any year thereafter.**



1108 East Main St., Suite 1108, Richmond, VA 23219 (804) 643-1166 Fax: (804) 643-1155

March 8, 2013

The Honorable Bob McDonnell  
Governor of Virginia  
Patrick Henry Building, 3rd Floor  
1111 East Broad Street  
Richmond, Virginia 23219

Dear Governor McDonnell:

Congratulations on the historic passage of HB 2313. We are very appreciative of your courageous leadership and the hard work of your entire team that led to the passage of this important comprehensive funding package. We are especially appreciative of the critically needed new revenue it will provide for public transportation!

We also write to ask you to make the following technical amendments to the bill:

1. This technical amendment request is regarding the 2<sup>nd</sup> Enactment Clause in HB 2313. Page 40, lines 2406-2414 relates to the increase in contingency gas tax revenue if the Market Place Equity Act is not enacted by 1/1/2015. **VTA requests that you add language ensuring the 1.6 percent increase in gas tax contingency revenues be directed to the Transportation Trust Fund, just as the transportation share of Market Place Equity Act funds are directed to the TTF in §58.1-638.2 (5).**

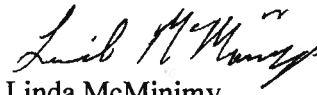
It is clear from the staff-prepared conference report descriptive materials (attached) that this was the conference committee's intent for contingency revenues. However, the specific Code Section and language was left out in the rush to produce the conference report. Without specific language these funds will be distributed by a different method that would provide very meager growth in the Trust Fund to accommodate growing needs of all modes.

2. This amendment request relates to §33.1-23.5:3. Hampton Roads Transportation Fund, Lines 228-230: *"The moneys deposited in the fund shall be used solely for new construction projects on new or existing roads in the Hampton Roads Region as approved by the Hampton Roads Transportation Planning Organization."* **VTA asks you to add language allowing transit service to be an allowable purpose for which Hampton Roads regional funds can be used.** This service could play an important role in adding capacity and mobility to the roads and transportation network in Hampton Roads.

March 8, 2013

Again, thank you for the pivotal role you and your administration played in the passage of this historic legislation. Virginia residents, travelers and businesses will be well-served by this measure for many years to come.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda McMinimy", written in a cursive style.

Linda McMinimy  
Executive Director

pc: The Honorable Sean Connaughton  
The Honorable Thelma Drake, DRPT  
Steve Pittard, DRPT  
Kevin Page, DRPT





# COMMONWEALTH of VIRGINIA

## Office of the Governor

Robert F. McDonnell  
Governor

March 26, 2013

The Honorable William J. Howell  
Virginia House of Delegates  
P.O. Box 8296  
Fredericksburg, VA 22404

The Honorable Thomas K. Norment  
Senate of Virginia  
P.O. Box 6205  
Williamsburg, VA 23188

The Honorable David J. Toscano  
Virginia House of Delegates  
211 East High Street  
Charlottesville, VA 22902

The Honorable Richard L. Saslaw  
Senate of Virginia  
P.O. Box 1856  
Springfield, VA 22151

Gentlemen:

This past General Assembly Session we accomplished a great deal across a broad spectrum of policy areas by putting partisanship aside and working together. None of these accomplishments will potentially have as big and as lasting an impact on Virginia's future economic prosperity and the quality of life of our citizens as our transportation funding legislation. We have been able to fund a solution after 27 years of work to address one of our most vexing challenges in a bipartisan way. I asked you during the State of the Commonwealth Speech in January, as I proposed a transportation bill, to make this session the one to fix the problem. Thank you for accomplishing that goal.

As I said when the bill passed the General Assembly, its contents are the very essence of compromise across regional and philosophical lines. There is something in the legislation for everyone to like and something for everyone to dislike, including myself. Over the past couple of weeks, as my Administration has conducted its legal and policy review, we have heard from a diverse group of citizens, General Assembly members, and stakeholders with many different comments and thoughts on the different components and policies within the legislation. We have also consulted with legal counsel at the Office of the Attorney General and in-house counsel to ensure that the provisions comply with the Constitution and do not conflict with other Virginia laws.

The compromise bill contains the majority of my proposals for a statewide solution, by dramatically reducing the gas tax by about 35%, using \$200 million in current general funds and \$200 million in future general funds from the federal Marketplace Fairness Act. Your significant conference committee changes came with the addition of regional plans. Based upon a number of meetings with citizens, stakeholders and legislators, I am recommending a number of

amendments for your consideration. These amendments do not alter the intent of the legislation, nor do they significantly impact the revenues generated by its provisions. Rather, they focus on the following: (i) ensuring that the provisions do not negatively impact Virginia citizens and businesses in an economy still struggling to recover; (ii) ensuring that the provisions comply with the Constitution of Virginia; and (iii) addressing multiple administrative and technical issues.

The first set of amendments involves adjustments to four revenue rates. I fundamentally believe that, given transportation's wide ranging positive impacts, all Virginians should be contributing to our transportation networks. Certain provisions within this legislation, however, simply go too far in what they ask Virginians to contribute. The additional 1.3% increase in the state titling tax, for example, may discourage many Virginians from purchasing a new vehicle at a time when auto sales are still rebounding from our most recent recession. I propose we cap this increase at 1.15%. This change will still provide a significant source of new revenue, while lessening the impact on the auto industry and the public. It will still keep the sales tax on the purchase of a car well below the sales tax levied on all other purchases. This amendment will have minimal effect on the state's overall transportation revenues, with an impact estimated at less than .5% of total revenues in FY 2018.

I also believe that we must amend the regional tax rates in Northern Virginia. The stated goal of many in the Northern Virginia delegation was to raise up to an additional \$350 million by year five for regional transportation projects. The legislation as passed will potentially raise closer to \$400 million once all of the taxes and fees are accounted for. Consequently, I propose reducing the state Transient Occupancy Tax (TOT) to 2% from the legislation's stated 3%. When you account for the additional 1% in the combined regional and state sales taxes that will be paid in Northern Virginia, the net impact of the conference report was an unacceptable 4% increase. This reduction to a 2% TOT will ensure that Northern Virginia hotels remain competitive with Washington, D.C. and surrounding areas. Further, I propose that we reduce the Regional Congestion Fee, which comes in the form of an additional Grantor's Tax, to \$0.15 cents per \$100 as opposed to its legislation's \$0.25 per \$100. The stated goal of including this tax rate in the legislation was to raise approximately \$30 million in Northern Virginia. The tax as passed by the General Assembly would actually raise well over \$50 million per year. Even with these two changes, the Northern Virginia component of the legislation will generate close to the same amount of revenue over the next five years for the region (approximately \$1.5 billion) that the General Assembly believed HB2313 generated when it was approved.

Finally, the \$100 Alternative Fuel Vehicle fee in our introduced legislation was based on the average Virginia driver paying almost \$100 per year in gasoline taxes. This estimate was based on a tax at the rate of 17.5 cents per gallon. The conference report reduces the gasoline tax to a rate equivalent to 3.5%, approximately a 35% reduction in the rate of taxation. Therefore, I propose reducing the Alternative Fuel Vehicle fee to \$64, as well as other changes to this provision to ensure that certain vehicles that are already taxed do not pay this fee. This change will bring more equity to Virginia's drivers and ensure that all motorists are paying their fair share for the construction and maintenance of the roads we all use.

All told, the statewide plan is reduced about \$38 million annually in year 5 and the Northern Virginia plan is reduced about \$15 million below the conference report estimates. For the first five years of the law's enactment through FY 2018, the taxes will be reduced by a total of \$302 million.

The second set of amendments I am proposing addresses potential legal issues surrounding the imposition of regional taxes for Hampton Roads and Northern Virginia. Specifically, concerns have been raised that the current provisions of HB 2313 could run afoul of the Virginia Constitution. To address such concerns, I propose amendments to particularly ensure that the bill is not viewed as special legislation, and that these are clearly factors for imposing differential tax rates. Specifically, the regional taxes and fees will apply to any jurisdiction that is a member of a Planning District Commission meeting certain population, registered vehicles, and transit ridership thresholds, all indicators of significant congestion. As you are aware, under the Virginia Code, the purpose of planning districts is to encourage and facilitate local government cooperation and state-local cooperation to address regional problems that are greater than those of only local significance. A functional area specifically identified by the Code as warranting regional cooperation is transportation. In fact, the General Assembly has previously created "The Specialized Transportation Incentive Fund" (§ 15.2-4217.1) to assist participating planning districts in the development of coordinated specialized transportation plans and projects. Given the statutory basis and purpose of planning districts, as well as firm and longstanding legal precedent, my proposed amendments will enable planning districts in Northern Virginia and Hampton Roads – as well as potentially other regions meeting these proposed objective criteria in the future – to meet their growing transportation challenges without facing needless challenges and litigation.

The final set of amendments address administrative concerns identified by stakeholders and our Executive Branch agencies, as well as those items that are purely technical in nature, many of which came from the Division of Legislative Services. In several instances, language was retained from the introduced version of the bill that pertained to a complete elimination of the Commonwealth's tax on gasoline. Because the gas tax is being retained in part, albeit as a percentage and not a flat rate, these provisions are no longer necessary. Other examples include inserting language to ensure that alternative fuel vehicles that pay the Commonwealth's equivalent rate tax are not subject to the new fee, clarifying that the wholesale price and the price at the rack are one and the same, and cleaning up the language on the refund for diesel passenger vehicles.

I believe only one of the administrative amendments is truly substantive in nature. As passed, the legislation would grant the gasoline industry a six month window in which to file their tax returns and remit their tax payments. This change was intended to be a onetime grace period to account for any administrative burdens associated with a change in the rate of taxation on gasoline. However, the language would actually allow a four month period in which the Commonwealth would collect no gasoline taxes or storage tank fees.

To address this challenge, I am recommending that (i) these changes be removed from the bill; (ii) the existing floorstocks tax – put in place in 2001 when the motor fuels tax was

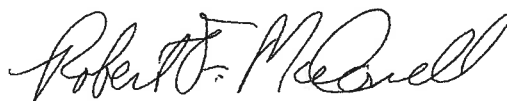
moved from the retail level to the rack – be repealed; and (iii) that a tax on fuel in inventory be put in place. This would replace the mechanism that was put in place the last time the method of taxation on motor fuel was changed. As a consequence, rather than a long transition period or changing the manner in which the industry remits its taxes, this new process would require the industry to conduct an inventory of fuel in storage tanks on the last day prior to a transition to the new sales tax on gasoline. Based upon the taxes paid on this fuel, they will receive a refund for the taxes paid if the new rate of taxation is lower, or will pay taxes if the new rate of taxation is higher. Thereafter, the method currently in place for remitting their taxes would remain unchanged. This change will greatly smooth the transition for the changes in the method of taxation on motor fuel and address the administrative concerns expressed by the industry and our Executive Branch agencies.

I will be the first to recognize that the list of amendments for your consideration is lengthy. However, given the importance of this major legislation it is imperative that the provisions are all administratively, legally, and technically correct. It is also important that we bear in mind and take into account the potential impacts of the new provisions contained in the legislation on Virginia's citizens and business. Again, it is important to stress that none of these amendments substantially alters the intent or the additional revenues generated by this measure. In terms of the revenue generated, the provisions put in place, and the overall construction of the legislation, while the value of the plan over five years will decrease by about \$302 million, which in relation to the entire package, these amendments are a minimal 5%. With my amendments, the statewide component will still generate \$3.4 billion over five years, versus \$3.5 billion as approved by the General Assembly.

Attached for your review are the following: (1) a draft of my proposed substitute; (2) fiscal impact charts; and (3) recommended amendments talking points. A chart highlighting the proposed amendments, including the rationale, will be sent separately. Over the coming days, representatives of my administration will be conducting significant outreach to answer any questions.

As always, should you have any questions or concerns or wish to further discuss these amendments, please do not hesitate contact me, my Chief of Staff Martin Kent, or Secretary of Transportation Sean T. Connaughton at any time.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert F. McDonnell". The signature is fluid and cursive, with the first name "Robert" and last name "McDonnell" clearly distinguishable.

Robert F. McDonnell

RFM/kfs





# Governor's Amendment

## KEY POINTS

### *2013 General Assembly Reconvene Session*

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**House Bill:** HB 2313

**Patrons:** Speaker Howell

**Short Title:** Revenues and appropriations primarily for transportation.

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**Summary:**

The Governor's recommendations for HB 2313, Virginia's Road to the Future Plan, principally focus on addressing the administrative and technical issues necessary for Virginia's Executive Branch agencies and the regional transportation organizations to properly implement and administer the new provisions of this legislation. The amendments also ensure that certain provisions meet the legal requirements set forth in the Constitution of Virginia.

Substantive amendments to the policies contained in the legislation are as follows:

1. Establishes the titling tax at 4% as of FY 2014, and phases in an additional 0.15% over three years for a total of 4.15%.
2. Reduces the Alternative Fuel Vehicle Fee to \$64 to mirror the amount of gas tax a typical conventional fuel vehicle driver will be estimated to pay at the new tax rate on gasoline;
3. Reduces the regional congestion fee, or grantor's tax to \$0.15/\$100 so that the amount of tax generates the intended amount of revenue;
4. Sets the regional state imposed Transient Occupancy Tax at 2% to ensure that the rate of tax in Northern Virginia remains competitive with surrounding out-of-state jurisdictions.

These amendments will help ensure that Virginia's businesses and citizens are not disproportionately affected by the provisions of this legislation, while still generating approximately the same amount of regional funding. **The reduction in statewide funding through these amendments amounts to approximately 0.5% of the estimated statewide transportation program by FY '18.**

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The following provides a section by section analysis of the substitute proposed by the Governor as compared to the enrolled legislation. A detailed accounting of each amendment is included in the attached chart.

**§ 15.2-4838.01** – This section creates the Northern Virginia Transportation Authority Fund as the depository for the regional funds generated in Northern Virginia. Technical amendments are made to clarify that the fund is for those revenues generated in Planning District 8 and that the funds are to be administered by the NVTa in accordance with § 15.2-4838.1.

**§ 15.2-4838.1** – This section governs the use of the regional funds by the Northern Virginia Transportation Authority. Thirty percent of the funds are to be used by the individual localities in the region and 70% of the funds will be used by the NVTa to address regional projects that reduce congestion, including mass transit capital projects. Amendments include:

- A technical amendment to correct the lack of a proper subdivision reference;

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## Governor's Amendment

- The insertion of new language to grant the NVTa flexibility in how it uses the revenues in the first year. The section requires that projects be rated in accordance with § 33.1-13.03:1. These ratings were put in place by the 2012 Session of the General Assembly and will not be complete for another year. As such, the NVTa would be receiving revenues, but not have projects to spend them on in the first year. The amendment would enable the NVTa to use only the FY 2014 revenues on projects that have not been rated; and
- Without this amendment, the regional taxes would be generating revenues that the NVTa would not be able to spend on projects in the first year.

**§ 33.1-23.03:8** – This section makes clarifying amendments to the funding sources for the Priority Transportation Fund based on the allocation of motor fuels tax revenues. **There are no changes to this section in the substitute.**

**§ 33.1-23.5:1** – This section sets out allocations of funds for those counties that have withdrawn or elect to withdraw from the secondary system of state highways. Currently this section only applies to Arlington and Henrico counties. Amendments to this section include:

- Clarifying that allocations are based on moving lane miles rather than just lane miles. This amendment is necessary to conform the allocation process to how VDOT allocates funding to other localities that maintain their own roads.

**§ 33.1-23.5:3** – This section creates the Hampton Roads Transportation Fund as the depository for the new regional revenues and sets out how funds are to be used. Amendments include:

- Technical amendments clarifying that the fund is for revenues generated in Planning District 23;
- Clarifying that funds may be used on bridges and tunnels;
- Specifying that funds will be used on projects throughout Planning District 23 as approved by the HRTPO;
- Stating that the HRTPO shall give priority to those projects that have the greatest impact on reducing congestion; and
- Eliminating the definition of “Hampton Roads Region” to conform this section to changes made in the sections authorizing the regional taxes.

**§ 33.1-221.1:1.3** – **This section was not included in the enrolled legislation.** It is being added to account for the allocation of a portion of the 0.3% sales and use tax to the Intercity Passenger Rail Capital and Operating Fund in §58.1-638.3(A)(2). It is a technical amendment.

**§§ 58.1-300, 58.1-300, and 58.1-520** – These sections include technical changes to the Code to account for the repeal of local authority to impose the local option income tax. **There are no changes to these sections in the substitute.**

**§§ 58.1-601, 58.1-602, 58.1-605, 58.1-606, 58.1-612, 58.1-615, 58.1-625, and 58.1-635** – These sections all deal with the administration and implementation of the Marketplace Fairness Act. **There are no changes to these sections in the substitute.**



## Governor's Amendment

**§ 58.1-603** – This section imposes the additional 0.3% sales tax. **There are no changes to this section in the substitute.**

**§ 58.1-603.1** – This section imposes an additional 0.7% sales tax in Hampton Roads and Northern Virginia to fund transportation and dedicates the revenues to the Hampton Roads Transportation Fund and the Northern Virginia Transportation Authority Fund. As adopted by the General Assembly, the language is specific to just these two regions. The substitute:

- Broadens the applicability of the tax to any county or city that is a member of a Planning District with a population of 1.5 million or more, that has 1.2 million or more registered vehicles, and 15 million or more transit riders per year. **The only two regions that currently meet these criteria are Hampton Roads and Northern Virginia;**
- Authorizes the creation of special funds for any PDC meeting the above criteria. For PDC 8 (NOVA) the revenues are deposited into the fund established by § 15.2-4838.01, and for PDC 23 (Hampton Roads) the revenues are deposited into the fund established by § 33.1-23.5:3;
- These changes ensure that the provisions comply with all legal requirements; and
- An additional amendment ensures that the transitional provisions related to implementing the additional sales tax apply not only to the statewide sales tax component of the legislation, but also the regional component.

**§ 58.1-604** – This section imposes the additional 0.3% use tax. **There are no changes to this section in the substitute.**

**§ 58.1-604.01** - This section imposes an additional 0.7% use tax in Hampton Roads and Northern Virginia to fund transportation and dedicates the revenues to the Hampton Roads Transportation Fund and the Northern Virginia Transportation Authority Fund. As adopted by the General Assembly, the language is specific to just these two regions. The substitute:

- Broadens the applicability of the tax to any county or city that is a member of a Planning District Commission with a population of 1.5 million or more, that has 1.2 million or more registered vehicles, and 15 million or more transit riders per year. **The only two regions that currently meet these criteria are Hampton Roads and Northern Virginia;**
- Authorizes the creation of special funds for any PDC meeting the above criteria. For PDC 8 (NOVA) the revenues are deposited into the fund established by § 15.2-4838.01, and for PDC 23 (Hampton Roads) the revenues are deposited into the fund established by § 33.1-23.5:3;
- These changes ensure that the provisions comply with all legal requirements; and
- An additional amendment ensures that the transitional provisions related to implementing the additional sales tax apply not only to the statewide sales tax component of the legislation, but also the regional component.

**§ 58.1-604.1** – This section imposes the 0.3% use tax the storage of vehicles, equipment, tools, etc. brought into Virginia for use in performing contracts. It also caps the rate for any locality imposing the additional regional use tax at 5% in that locality. **There are no changes to this section in the substitute.**



## Governor's Amendment

**§ 58.1-608.3** – This section makes changes to the definition of “sales tax revenues” to account for the additional 0.3% statewide sales tax and the regional 0.7% sales tax. The substitute includes technical changes.

**§ 58.1-614** – This section imposes the additional 0.3% sales tax on vending machine sales statewide and sets the rate at 6% for those jurisdictions wherein the additional 0.7% sales tax is levied. **There are no changes to this section in the substitute.**

**§ 58.1-638** – This section 1) allocates an additional 0.125% of the existing sales and use tax revenues to the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund, 2) dedicates an additional 0.175% of the existing sales and use tax to the Highway Maintenance and Operating Fund, and 3) allocates the additional 0.7% regional sales and use tax revenue to the Northern Virginia Transportation Authority Fund and the Hampton Roads Transportation Fund. Amendments to this section conform the language allocating the regional sales and use tax to the changes made in the sections authorizing the taxes. These amendments are technical in nature.

**§ 58.1-638.2** – This section allocates the additional revenues generated through the Marketplace Fairness Act to public education, Virginia’s local governments, and the Transportation Trust Fund. **There are no changes to this section in the substitute.**

**§ 58.1-638.3** – This section allocates the additional sales and use tax revenue generated by the 0.3% increase to the Highway Maintenance and Operating Fund, the Intercity Passenger Rail Operating and Capital Fund, and the Commonwealth Mass Transit Fund. An amendment corrects an incorrect code citation for the Intercity Passenger Rail Operating and Capital Fund.

**§ 58.1-639** – This sections deals with transitional provisions for the increased sales and use tax. **There are no changes to this section in the substitute.**

**§ 58.1-802.2** – This section imposes an additional congestion relief fee, or Grantor’s Tax, on each deed, instrument, or writing by which land or realty is sold. As adopted by the General Assembly, the tax is imposed only in Northern Virginia. Amendments to this section include:

- **Reducing the rate of the tax from \$0.25/\$100 to \$0.15/\$100.** The stated goal behind this tax was to generate approximately \$30 million for transportation. The original estimates were based on incorrect data. At a rate of \$0.25/\$100, the fee would actually generate \$55 million per year. By reducing the rate on the tax, the legislation will generate the desired amount while not disproportionately taxing these transactions, and will save taxpayers \$111 million over the five year period due to the miscalculation on the rate;
- Broadening the applicability of the tax to any county or city that is a member of a Planning District Commission with a population of 2 million or more, that has 1.7 million or more registered vehicles, and 50 million or more transit riders per year. **The only region that currently meets these criteria is Northern Virginia;**
- Authorizes the creation of special funds for any PDC meeting the above criteria. For PDC 8 (NOVA) the revenues are deposited into the fund established by § 15.2-4838.01;
- Technical amendments to conform language to the substantive change above; and
- These changes ensure that the provisions comply with all legal requirements.





## Governor's Amendment

**§ 58.1-811** – This section makes technical changes to the Code related to the imposition of the new regional congestion relief fee. There is a technical amendment to this section.

**§ 58.1-1742** – This section imposes an additional Transient Occupancy Tax in Northern Virginia. As passed by the General Assembly, the rate of taxation was 3%. Amendments include:

- **Reducing the rate of the TOT from 3% to 2%.** At 3%, the net impact of this increase, once the additional 0.3% state and 0.7% local sales and use tax is factored in, is 4%. This level of an increase will make the tax rate on hotels in some Northern Virginia localities equal to or higher than some surrounding out-of-state jurisdictions. Reducing the rate to 2% will still have a net impact of 3%, but will ensure that Northern Virginia hotels remain competitive with surrounding jurisdictions. This change will lead to a \$71 million reduction over the five year period, or less than 0.05% of the total Northern Virginia package;
- Broadening the applicability of the tax to any county or city that is a member of a Planning District Commission with a population of 2 million or more, that has 1.7 million or more registered vehicles, and 50 million or more transit riders per year. **The only region that currently meets these criteria is Northern Virginia;**
- Authorizes the creation of special funds for any PDC meeting the above criteria. For PDC 8 (NOVA) the revenues are deposited into the fund established by § 15.2-4838.01;
- Technical amendments to conform language to the substantive change above; and
- These changes ensure that the provisions comply with all legal requirements.

**§ 58.1-2201** – This section includes definitions as they relate to the Virginia Motor Fuels Tax Act. The only change to this section is the insertion of a definition for “wholesale price” to clarify that the wholesale price and the rack price are one and the same. It is a technical amendment.

**§ 58.1-2217** – This section imposes the tax on motor fuels. The conference report eliminated the 17.5 cents per gallon tax on gasoline and diesel and imposed a 3.5% and 6% tax, respectively, on the average wholesale price of a gallon of regular unleaded gasoline or diesel fuel. Amendments to this section include:

- An administrative amendment to clarify that the 3.5% and 6% taxes are being levied in place of, not on top of, the 17.5 cents per gallon tax;
- Eliminating the term self-serve. There is no difference in price at the wholesale level between self-serve and full service. That distinction is added later in the process; and
- Miscellaneous technical amendments to correct drafting errors and omissions.

**§ 58.1-2249** – This section levies an additional fee on alternative fuel vehicles. As adopted by the General Assembly, the fee was \$100. Amendments to this section include:

- **Reducing the amount of the fee from \$100 to \$64.** The original basis for the \$100 fee was based on a rate of taxation on gasoline of 17.5 cents per gallon. Since the conference report will lead to an approximately 35% reduction in the gas tax, reducing the alternative fuel vehicle fee will more equitably tax these vehicles compared to conventional fueled vehicles. This change will amount to a \$24 million reduction over the next five year period.



## Governor's Amendment

- Clarifying that any vehicle subject to the state equivalent rate tax on alternative fuels is not also subject to the alternative fuel vehicle fee.
- Clarifying that mopeds are not subject to the alternative fuel vehicle fee as a result of separate legislation that changes the treatment of mopeds.

**§ 58.1-2251** – This section states that the alternative fuel vehicle fee is to be paid upon the first registration of a vehicle and each subsequent renewal of registration. **There are no changes to this section in the substitute.**

**§ 58.1-2259** – This section authorizes drivers of diesel fuel passenger vehicles to be eligible for a refund for the difference between the rate of tax on diesel fuel and the rate of tax on gasoline. Amendments to this section include:

- Language to specifically state that the amount of refund is based on the difference between the rate of tax on diesel fuel and the rate of tax on gasoline. By making this amendment, this section can be taken out of the second enactment of the legislation, thereby eliminating any potential confusion over the amount of the refund.
- Inserting new language specifically exempting the refunded tax from being subject to the sales tax. Generally, any portion of motor fuels taxes refunded by DMV are subject to the sales and use tax unless explicitly exempt.
- Technical amendments to correct drafting errors.

**§ 58.1-2289** – This section allocates the revenues generated by the tax on motor fuels, with 80% going to the Highway Maintenance and Operating Fund, 15% to the Transportation Trust Fund, four percent to the Priority Transportation Fund, and one percent to DMV to cover the costs of administering the fuels tax. **There are no changes to this section in the substitute.**

**§ 58.1-2290.1** – **This is a new Code section that was not in the Conference Report.** The conference report attempted to address concerns expressed by the motor fuels industry on tax paid fuel in inventory at the time of transition to the new tax rates through changes to § 58.1-2230. Unintentionally, the language inserted in the Conference Report would have lead to a conflict with other existing provisions, and the Commonwealth would not have collected motor fuels tax revenues or storage tank fees for a four month period following the transition. This new section creates a tax on fuel in inventory as follows:

- Requires the industry to conduct an inventory of the fuel in storage at the close of the business day prior to July 1, 2013.
- The amount of tax liability will be calculated as the difference between the tax rate specified for each type of fuel as of July 1, 2013 and the rate of tax as in effect on June 30, 2014.
- Distributors will have until January 1, 2014 to file their tax forms. When the distributor files his returns, he will either apply for a refund if the amount of tax is less at the new rate, or pay additional taxes if the amount of tax is more at the new rate.
- Given the reduction in the tax on gasoline, most distributors should be eligible for a refund.
- This new section replaces the existing Floorstocks Tax, which was put in place in 2001 when the motor fuels tax was moved from the distributor level to the terminal rack. The provisions are substantively the same, and have proven an effective process for addressing a change in the manner of taxation on gasoline and diesel fuel before.



## Governor's Amendment

- This amendment will address the concerns expressed by the motor fuels industry, as well as administrative concerns expressed by DMV and DEQ.

**§ 58.1-2295** – This section imposes an additional local 2.1% SUT on motor fuels in the Hampton Roads region. Amendments to this section include:

- Broadening the applicability of the tax to any county or city that is a member of a Planning District with a population between 1.5 and 2 million, 1.2 to 1.7 million registered vehicles, and 15 to 50 million transit riders per year. **The only region that currently meets these criteria is the Hampton Roads region;** and
- This amendment ensures compliance with the all legal requirements.

**§ 58.1-2299.20** – This section deals with the allocation of revenues generated by the 2.1% local SUT on motor fuels. Amendments to this section:

- Authorize the creation of special funds for any PDC meeting the specified criteria for levying the tax. For PDC 23 (Hampton Roads) the revenues are deposited into the fund established by § 33.1-23.5:3; and
- Make a technical amendment to correct a drafting error.

**§ 58.1-2401** – This section includes definitions as they relate to the motor vehicle titling tax. An amendment clarifies that both rebates and incentives must be offered by the manufacturer when determining the sales price. It is a technical amendment.

**§ 58.1-2402** – This section sets the rate of taxation for the titling tax. As passed by the General Assembly, the legislation phases in a new rate of 4.3% and increases the minimum titling tax from \$35 to \$75. Amendments to this section:

- **Reduce the titling tax from 4.3% to 4.15%.** The additional 0.15% will be phased over three years. Based on conservative forecasting and actual percentage growth in auto sales recently, the increase from 3% to 4.3% will likely generate substantially more revenue than intended. Reducing this rate will still generate substantial new revenue for Virginia's transportation networks without disproportionately impacting the auto industry and Virginians looking to purchase a new or used vehicle. Based on current forecasts, this change will amount to approximately \$95 million in savings over the next five years, or less than 0.5% of total statewide transportation revenues in FY 2018.

**§ 58.1-2425** – This section allocates the additional revenues generated by the increases in the titling tax to the Highway Maintenance and Operating Fund. **There are no changes to this section in the substitute.**

**§ 58.1-2701** - This section makes technical changes to the Code related to the Road Tax to mirror changes made in the section establishing the rate of taxation on motor fuels. Amendments to this section include technical amendments related to administering the new form of taxation on motor fuels.



## Governor's Amendment

**§ 58.1-2706** – This section sets out certain credits for taxes paid on motor fuels. The conference report included technical changes related to the change in the rate of taxation in § 58.1-2217. The substitute contains additional technical amendments related to administering the new form of taxation on motor fuels.

**Second Enactment** – Changes the rate of taxation on gasoline set forth in § 58.1-2217 to 5.1% effective January 1, 2015, if the Marketplace Fairness Act is not enacted by Congress. Amendments to this section are technical in nature. Section 58.1-2259 has been removed from the second enactment, as the changes are no longer necessary based on the amendments to that section in the first enactment.

**Third Enactment** – Specifies that the amount of general fund sales and use tax transferred to transportation shall not increase after FY 2015 if the Marketplace Fairness Act is not enacted by Congress. Technical amendments are included in the substitute.

**Fourth Enactment** – Repeals local government authority to impose the local option income tax, as well as several contingent effective sections related to the motor fuels tax that are no longer necessary. Amendments in the substitute add § 58.1-2290, which is the existing Floorstocks Tax, to the list of sections being repealed. The Floorstocks Tax is outdated and being replaced by the tax on fuel in inventory.

**Fifth Enactment** – Specifies that the sales tax on food is not to be included when calculating transportation's share of the sales and use tax. The substitute includes technical amendments.

**Sixth Enactment** – Allocates \$100 million of the additional funding for the Highway Maintenance and Operating Fund in FYs 2014, 2015, and 2016 to Phase II of the Dulles Corridor Metrorail Project. An amendment grants the Commonwealth Transportation Board a greater degree of flexibility in determining where these funds come from in order to maximize the use of the additional revenues.

**Seventh Enactment** – Specifies that the provisions related to the Marketplace Fairness Act shall only become effective if Congress enacts such legislation. The substitute includes technical amendments.

**Eighth Enactment** – Mandates that the local governments in Northern Virginia work with the towns to implement the provisions of this act. An amendment strengthens this provisions to ensure that the towns receive their respective share of the local revenues.

**Ninth Enactment** – Includes legislative findings for why the regional transportation taxes are necessary. An amendment adds additional findings such as the impact of congestion on the environment and increased transit demand and the costs of congestion.

**Tenth Enactment** – Requires local governments in Northern Virginia and Hampton Roads to continue contributing a set amount of local funding to transportation. Amendments to this enactment:

- Exclude bond proceeds and state and federal grants from the calculation;

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## Governor's Amendment

- Provide that instead of being locked in at a specific rate, the amount that must be contributed shall be a three year average of the funding allocated to transportation between July 1, 2010, and June 30, 2013; and
- Condition receipt of the benefits of the regional revenues on continuing to contribute local funding. If a locality does not contribute local funding, their share of the regional revenues shall be reduced in the following year.

**Eleventh Enactment** – Prohibits the imposition of tolls on I-95 pursuant to the Interstate System Reconstruction and Rehabilitation Pilot Program. **There are no amendments to this enactment in the substitute.**

**Twelfth Enactment** – Amends the 24<sup>th</sup> Enactment of Chapter 896 of the Acts of Assembly of 2007 so that it does not apply to certain sections of the Fuels Tax Act being amended by this legislation. **There are no amendments to this enactment in the substitute.**

**Thirteenth Enactment** – Dedicates \$20 million per year beginning in FY 2020 to the Route 58 Corridor Development Fund. The legislation as adopted by the GA takes this funding from the Highway Maintenance and Operating Fund. These funds are more appropriately taken from the Transportation Trust Fund, which supports capital projects. An amendment makes this change.

**Fourteenth Enactment** – Provides that the additional regional taxes shall expire in any year in which a local government transfers funding to a non-transportation related purpose. Amendments to this section address potential legal questions by:

- Limiting the expiration to cases wherein the General Assembly transfers additional funding generated by the legislation to a non-transportation purpose; and
- Stating that any local government that transfers funding to a non-transportation purpose shall not receive regional funding in the following year.

**Fifteenth Enactment** – Specifies that should Congress pass the Marketplace Fairness Act at any point on or after January 1, 2015, then the gasoline tax shall be reduced back to the 3.5% rate established in the first enactment. A technical amendment is made to this section.

**Sixteenth Enactment** – This is a new enactment clause that explicitly authorizes the Department of Taxation to issue guidelines for the new and additional sales and use taxes.

**Seventeenth Enactment** – This is a new enactment that requires VDOT, the Department of Taxation and others to review and make recommendations on the implementation of the regional taxes imposed by the legislation, with a focus on identifying any additional powers and authorities that may be needed to ensure the proper utilization of the revenues.

**Eighteenth Enactment** – This is a severance clause. **No changes were made by the substitute.**

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**Amendments: See Attached Chart**

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Conference Report						
Policy	2014	2015	2016	2017	2018	5-Year Total
Replace 17.5 cents per gallon with 3.5% SUT on gasoline	\$412.0	\$470.1	\$482.0	\$493.2	\$501.6	<b>\$2,358.9</b>
Replace 17.5 cents per gallon with a 6% SUT on diesel	\$214.3	\$252.9	\$267.6	\$285.3	\$303.1	<b>\$1,323.2</b>
Eliminate 17.5 cents/gallon tax on motor fuel (gasoline and diesel)	(\$871.1)	(\$889.3)	(\$907.4)	(\$922.6)	(\$938.2)	<b>(\$4,528.6)</b>
0.3% SUT increase (5.3% total) on goods and services dedicated to transportation (excludes food)	\$265.8	\$301.2	\$313.2	\$325.2	\$336.3	<b>\$1,541.7</b>
\$100 Alternative Fuel Vehicle Fee	\$10.2	\$11.4	\$13.0	\$15.0	\$17.0	<b>\$66.6</b>
Increase titling tax from 3% to 4.3%	\$184.0	\$223.9	\$248.8	\$278.5	\$278.6	<b>\$1,213.8</b>
Incremental Sales Tax Commitment Over 5 Years (0.5% to 0.675%)	\$49.0	\$101.7	\$158.4	\$191.8	\$198.2	<b>\$699.1</b>
Marketplace Equity - Transportation	\$145.9	\$165.3	\$171.9	\$178.5	\$184.5	<b>\$846.1</b>
<b>Additional Funding for Transportation Statewide</b>	<b>\$410.1</b>	<b>\$637.2</b>	<b>\$747.5</b>	<b>\$844.9</b>	<b>\$881.1</b>	<b>\$3,520.8</b>

NOVA Local Component						
Policy	2014	2015	2016	2017	2018	5-Year Total
Northern Virginia 0.7% L.O.S.T.	\$214.1	\$242.6	\$252.3	\$261.9	\$270.8	<b>\$1,241.7</b>
Northern Virginia Grantors Tax (\$0.25/\$100)*						
Actual impact as compared to original projections	\$55.8	\$55.8	\$55.8	\$55.8	\$55.8	<b>\$279.0</b>
NOVA Transient Occupancy Tax 3%	\$37.3	\$42.2	\$43.7	\$45.1	\$46.8	<b>\$215.1</b>
<b>Total New Local Revenue NOVA</b>	<b>\$307.2</b>	<b>\$340.6</b>	<b>\$351.8</b>	<b>\$362.8</b>	<b>\$373.4</b>	<b>\$1,735.8</b>

Hampton Roads Local Component						
Policy	2014	2015	2016	2017	2018	5-Year Total
Hampton Roads 0.7% L.O.S.T.	\$115.2	\$130.6	\$135.8	\$141.0	\$145.8	<b>\$668.4</b>
Hampton Roads 2.1% Fuels Sales Tax	\$60.4	\$69.5	\$71.8	\$74.2	\$76.3	<b>\$352.2</b>
<b>Total New Local Revenue Hampton Roads</b>	<b>\$175.6</b>	<b>\$200.1</b>	<b>\$207.6</b>	<b>\$215.2</b>	<b>\$222.1</b>	<b>\$1,020.6</b>



Governor's Substitute						
Policy	2014	2015	2016	2017	2018	5-Year Total
Replace 17.5 cents per gallon with 3.5% SUT on gasoline	\$412.0	\$470.1	\$482.0	\$493.2	\$501.6	<b>\$2,358.9</b>
Replace 17.5 cents per gallon with a 6% SUT on diesel	\$214.3	\$252.9	\$267.6	\$285.3	\$303.1	<b>\$1,323.2</b>
Eliminate 17.5 cents/gallon tax on motor fuel (gasoline and diesel)	(\$871.1)	(\$889.3)	(\$907.4)	(\$922.6)	(\$938.2)	<b>(\$4,528.6)</b>
0.3% SUT increase (5.3% total) on goods and services dedicated to transportation (excludes food)	\$265.8	\$301.2	\$313.2	\$325.2	\$336.3	<b>\$1,541.7</b>
\$64 Alternative Fuel Vehicle Fee	\$6.5	\$7.3	\$8.3	\$9.6	\$10.9	<b>\$42.6</b>
Increase titling tax from 3% to 4.15%	\$184.0	\$213.7	\$228.0	\$246.3	\$246.5	<b>\$1,118.5</b>
Incremental Sales Tax Commitment Over 5 Years (0.5% to 0.675%)	\$49.0	\$101.7	\$158.4	\$191.8	\$198.2	<b>\$699.1</b>
Marketplace Equity - Transportation	\$145.9	\$165.3	\$171.9	\$178.5	\$184.5	<b>\$846.1</b>
<b>Additional Funding for Transportation Statewide</b>	<b>\$406.4</b>	<b>\$622.9</b>	<b>\$722.0</b>	<b>\$807.3</b>	<b>\$842.9</b>	<b>\$3,401.5</b>

NOVA Local Component						
Policy	2014	2015	2016	2017	2018	5-Year Total
Northern Virginia 0.7% L.O.S.T.	\$214.1	\$242.6	\$252.3	\$261.9	\$270.8	<b>\$1,241.7</b>
Northern Virginia Grantors Tax (\$0.15/\$100)	\$33.5	\$33.5	\$33.5	\$33.5	\$33.5	<b>\$167.5</b>
NOVA Transient Occupancy Tax 2%	\$24.9	\$28.2	\$29.1	\$30.1	\$31.2	<b>\$143.4</b>
<b>Total New Local Revenue NOVA</b>	<b>\$272.5</b>	<b>\$304.3</b>	<b>\$314.9</b>	<b>\$325.5</b>	<b>\$335.5</b>	<b>\$1,552.6</b>

Hampton Roads Local Component						
Policy	2014	2015	2016	2017	2018	5-Year Total
Hampton Roads 0.7% L.O.S.T.	\$115.2	\$130.6	\$135.8	\$141.0	\$145.8	<b>\$668.4</b>
Hampton Roads 2.1% Fuels Sales Tax	\$60.4	\$69.5	\$71.8	\$74.2	\$76.3	<b>\$352.2</b>
<b>Total New Local Revenue Hampton Roads</b>	<b>\$175.6</b>	<b>\$200.1</b>	<b>\$207.6</b>	<b>\$215.2</b>	<b>\$222.1</b>	<b>\$1,020.6</b>

## HB 2313 – Governor’s Recommendation

### Summary of Amendments in Governor’s Substitute

Page #	Line #	Amendment	Explanation
1	6	After: 33.1-23.5:1, Insert: 33.1-221.1:1.3	This is a technical amendment related to the insertion of § 33.1-221.1:1.3 on Line 245.
1	10	After: 58.1-2217, Strike: 58.1-2230,	This amendment, combined with the amendment on Line 27, removes § 58.1-2230 and the amendments thereto from the legislation. The new language inserted into this section was intended to address concerns expressed by the gasoline industry regarding the transition from a 17.5 cents/gallon tax to a 3.5% SUT on gasoline and a 6% SUT on diesel fuel. The new language in the conference report conflicts with another subsection within the section and would lead to the unintended consequences of DMV not collecting motor fuels tax for a four month period. The industry’s concerns are addressed by the amendment on Page 37, Line 2228.
1	12	After: <i>effective</i> , Insert: <i>and</i>	This is a technical amendment.
1	12	After: 58.1-2706 Strike: , <i>and</i> 58.1-2708	This amendment, combined with the amendment on Line 29, removes § 58.1-2708 and the amendments thereto from the legislation. The changes to this section were a holdover from the introduced legislation which eliminated the tax on gasoline in its entirety. Because the gas tax is being retained, albeit in a different form, this language is no longer necessary.
1	14	After: 58.1-638.3 Strike: <i>and</i>	This is a technical amendment.
1	14	After: 58.1-802.2 Insert: , <i>and</i> 58.1-2290.1	This amendment, combined with the amendment on Line 29, inserts a new section into the Code. The new section replaces § 58.1-2230 in the legislation to address concerns expressed by the gasoline industry with the transition to the new form of taxation. Its contents are discussed in detail with the amendment on Page 37, Line 2228.
1	18	After: <i>effective</i> , Insert: 58.1-2290,	This amendment, combined with the amendment on Page 42, Line 2542, repeals the Floorstocks Tax. The details of this amendment are included with the amendment on Page 37, Line 2228.
1	23	After: 33.1-23.5:1, Insert: 33.1-221.1:1.3,	This is a technical amendment related to the insertion of § 33.1-221.1:1.3 on Line 245.
1	27	After: 58.1-2217, Strike: 58.1-2230,	This amendment, combined with the amendment on Line 10, removes § 58.1-2230 and the amendments thereto from the legislation. The new language



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			inserted into this section was intended to address concerns expressed by the gasoline industry regarding the transition from a 17.5 cents/gallon tax to a 3.5% SUT on gasoline and a 6% SUT on motor fuels. The new language conflicts with another subsection within the section and would lead to the unintended consequences of DMV not collection motor fuels tax for a four months period. The industry’s concerns are addressed by the amendment on Page 37, Line 2228.
1	29	After: <b>effective</b> , Insert: <b>and</b>	This is a technical amendment.
1	29	After: <b>58.1-2706</b> Strike: <b>, and 58.1-2708</b>	This amendment, combined with the amendment on Line 12, removes § 58.1-2708 and the amendments thereto from the legislation. The changes to this section were a holdover from the introduced legislation which eliminated the tax on gasoline in its entirety. Because the gas tax is being retained, albeit in a different form, this language is no longer necessary.
1	32	At the beginning of the line Strike: <b>and</b>	This is a technical amendment.
1	32	After: <b>58.1-802.2</b> Insert: <b>, and 58.1-2290.1</b>	This amendment, combined with the amendment on Line 11, inserts a new section into the Code. The new section replaces § 58.1-2230 in the legislation to address concerns expressed by the gasoline industry with the transition to the new form of taxation. Its contents are discussed in detail with the amendment on Page 37, Line 2193.
1	35	After: <i>fund</i> Insert: <i>for Planning District 8</i>	This is a technical amendment to clarify that the fund is for revenues generated in Planning District 8.
1	39	After: <i>received</i> Insert: <i>for the credit of the Fund</i>	This is a technical amendment.
1	44	After: <i>distributed to the</i> Strike: <i>Authority</i> Insert: <i>Northern Virginia Transportation Authority as soon as practicable for use in accordance with § 15.2-4838.1</i>	This amendment clarifies that revenues in the fund are to be administered by the NVTa in accordance with § 58.1-4838.1.
1	56	After: <i>the Authority</i> Strike: <i>pursuant to §§ 58.1-638, 58.1-802.2, and 58.1-1742,</i>	This is a technical amendment. The sections being stricken allocate the revenues to the fund created pursuant to § 15.2-4838.01, which then specifies that the revenues are to be used in accordance with § 15.2-4838.1.
2	84	After: <i>subdivision</i>	This is a technical amendment to correct a drafting omission.

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		Insert: <i>I</i>	
2	95	After: <i>capacity</i> . Insert: <i>For only those regional funds received in fiscal year 2014, the requirement for rating in accordance with § 33.1-13.03:1 shall not apply.</i>	Section 33.1-13.03:1 requires the NVTa to rate projects in coordination with VDOT. This requirement was put in place in 2012 and the initial ratings will not be complete for another year. The language in § 15.2-4838.1 requires projects to be rated prior to funding them. This amendment exempts the funds from being used on rated projects for only those revenues generated during FY 2014.
4	202	After: <i>per</i> Insert: <i>moving</i>	This is a technical amendment to conform the allocation of funds for localities that have withdrawn from the secondary system of state highways to how VDOT allocates funding for other jurisdictions that maintain their own roads.
4	204	After: <i>per</i> Insert: <i>moving</i>	This is a technical amendment to conform the allocation of funds for localities that have withdrawn from the secondary system of state highways to how VDOT allocates funding for other jurisdictions that maintain their own roads.
4	227	At the beginning of the line Strike: <i>A</i> .	This is a technical amendment.
4	227	After: <i>fund</i> Insert: <i>for Planning District 23</i>	This is a technical amendment to clarify that the fund is for revenues generated in Planning District 23.
4	234	After: <i>roads</i> Insert: <i>, bridges, and tunnels</i>	This amendment was requested by the Hampton Roads Transportation Planning Organization to clarify that the Hampton Roads regional funds could also be used on bridges and tunnels. It is a technical amendment.
4	234	After: <i>in the</i> Strike: <i>Hampton Roads Region</i> Insert: <i>localities comprising Planning District 23</i>	This amendment conforms this section to the changes in the sections imposing the additional regional taxes.
4	236	At the end of the line Insert: <i>The Hampton Roads Transportation Planning Organization shall give priority to those projects that are expected to provide the greatest impact on reducing congestion and shall ensure that the moneys shall be used for such construction projects in all localities comprising Planning District 23.</i>	This amendment requires that in selecting projects, the HRTPO select those projects that have the greatest impact on reducing congestion, and that the funds be used in all localities comprising Planning District 23 to conform this section to changes in the sections imposing the additional regional taxes.
5	245	At the beginning of the line:	This amendment conforms this section to changes made in the sections

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### Summary of Amendments in Governor’s Substitute

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		Strike: <i>B. For purposes of this section, the “Hampton Roads Region” shall embrace the Counties of Gloucester, Isle of Wight, James City, and York, and the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg.</i>	authorizing the regional taxes.
5	245	Insert: § <a href="#">33.1-221.1:1.3</a> . Intercity Passenger Rail Operating and Capital Fund.  In subsection B, after, shall consist of funds Insert: <i>pursuant to § 58.1-638.3(A)(2)</i> (see Line 256)	This amendment inserts a new section into the legislation - § 33.1-221.1:1.3 – which is the section creating the Intercity Passenger Rail Operating and Capital Fund. In subsection B, the amendment includes new language specifically identifying the additional funding provided by the 0.3% SUT increase contained in the legislation as a source of funding for IPROC. Without this amendment, the language in this section would potentially conflict and prohibit IPROC from receiving this funding this year.
10	586	After: <i>county and city</i>  Strike: <i>embraced by the Northern Virginia Transportation Authority established under § 15.2-4830</i>  Insert: <i>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 1.5 million or more as shown by the most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit ridership of not less than 15 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 for in clause (i),</i>	This amendment expands the applicability of the regional 0.7% sales tax to any Planning District meeting the specified criteria. Today, the only regions that meet these criteria are Hampton Roads and Northern Virginia.
10	592	After: <i>percent.</i> Insert: <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.</i>	This amendment makes technical changes related to the change above. It provides for an enactment of July 1 following a calendar year in which any other planning district meets the criteria for levying the additional regional sales tax.
10	602	After: <i>Comptroller</i> Strike: <i>in the Northern Virginia Transportation Authority Fund established under § 15.2-4838.01. B. In addition to the sales tax</i>	This amendment modifies the language on where the regional sales tax revenues are to be deposited to conform the language to the changes authorizing the tax above. It does not impact where the funds go or the

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		<p><i>imposed pursuant to § <a href="#">58.1-603</a>, there is hereby levied and imposed in each county and city embraced in the Hampton Roads Region, as described in subsection B of § <a href="#">33.1-23.5:3</a>, a retail sales tax at the rate of 0.70 percent. Such tax shall not be levied upon food purchased for human consumption as defined in § <a href="#">58.1-611.1</a>. Such tax shall be added to the rate of the state sales tax imposed pursuant to § <a href="#">58.1-603</a> in each such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § <a href="#">58.1-622</a> shall be allowed for the tax imposed under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax under § <a href="#">58.1-603</a>. The revenue generated and collected pursuant to the tax authorized under this section, less the applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller in the Hampton Roads Transportation Fund established under § <a href="#">33.1-23.5:3</a>.</i></p> <p><i>Insert: into special funds established by law. In the case of Planning District Commission 8, the revenue generated and collected therein shall be deposited into the fund established in § 15.2-4838.01. In the case of Planning District Commission 23, the revenue generated and collected therein shall be deposited into the fund established in § 33.1-23.5:3. For additional Planning District Commissions that may be subject to this section, funds shall be established by appropriate legislation.</i></p> <p><i>B. The transitional provisions of § 58.1-639 shall apply, mutatis mutandis, to the taxes imposed pursuant to this section.</i></p>	<p>amount of the funds deposited.</p> <p>It also makes a technical amendment. Section 58.1-639 deals with the administrative aspects of transitioning into the additional sales taxes. The section excluded the regional 0.7% SUT. This amendment ensures the transitional provisions apply.</p>
11	638	<p><i>After: county and city</i></p> <p><i>Strike: embraced by the Northern Virginia Transportation Authority established under § 15.2-4830</i></p> <p><i>Insert: 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 1.5 million or more as shown by the most recent United States Census, has not less than</i></p>	<p>This amendment expands the applicability of the regional 0.7% use tax to any Planning District meeting the specified criteria. Today, the only regions that meet these criteria are Hampton Roads and Northern Virginia.</p>

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		<i>1.2 million motor vehicles registered therein, and has a total transit ridership of not less than 15 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 for in clause (i),</i>	
11	644	After: <i>percent.</i> Insert: <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.</i>	This amendment makes technical changes related to the change above. It provides for an enactment of July 1 following a calendar year in which any other planning district meets the criteria for levying the additional regional sales tax.
11	654	After: <i>Comptroller</i> Strike: <i>in the Northern Virginia Transportation Authority Fund established under § 15.2-4838.01. B. In addition to the sales tax imposed pursuant to § <a href="#">58.1-603</a>, there is hereby levied and imposed in each county and city embraced in the Hampton Roads Region, as described in subsection B of § <a href="#">33.1-23.5:3</a>, a retail sales tax at the rate of 0.70 percent. Such tax shall not be levied upon food purchased for human consumption as defined in § <a href="#">58.1-611.1</a>. Such tax shall be added to the rate of the state sales tax imposed pursuant to § <a href="#">58.1-603</a> in each such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § <a href="#">58.1-622</a> shall be allowed for the tax imposed under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax under § <a href="#">58.1-603</a>. The revenue generated and collected pursuant to the tax authorized under this section, less the applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller in the Hampton Roads Transportation Fund established under § <a href="#">33.1-23.5:3</a>.</i>  Insert: <i>into special funds established by law. In the case of Planning District Commission 8, the revenue generated and collected therein shall be deposited into the fund established in § 15.2-4838.01. In the case of Planning District Commission 23,</i>	<p>This amendment modifies the language on where the regional sales tax revenues are to be deposited to conform the language to the changes authorizing the tax above. It does not impact where the funds go or the amount of the funds allocated.</p> <p>It also makes a technical amendment. Section 58.1-639 deals with the administrative aspects of transitioning into the additional sales tax. The section excluded the regional 0.7% SUT. This amendment ensures the transitional provisions apply.</p>

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Page #	Line #	Amendment	Explanation
		<p><i>the revenue generated and collected therein shall be deposited into the fund established in § 33.1-23.5:3. For additional Planning District Commissions that may be subject to this section, funds shall be established by appropriate legislation.</i></p> <p><i>B. The transitional provisions of § 58.1-639 shall apply, mutatis mutandis, to the taxes imposed pursuant to this section.</i></p>	
15	900	<p>After: population,  Strike: (iii) the revenue generated by the 0.3 percent sales and use tax increase enacted by the 2013 Session of the General Assembly, or (iv) any sales and use tax revenues generated by increases imposed by the 2013 Session of the General Assembly and allocated to the Northern Virginia Transportation Authority Fund under § 15.2-4838.01 or the Hampton Roads Transportation Fund established under § 33.1-23.5:3.  Insert: or (iii) any sales and use tax revenues generated by increases or allocation changes imposed by the 2013 Session of the General Assembly.</p>	This is a technical amendment recommended by DLS.
25	1513	<p>After: use tax  Strike: in each county and city embraced by the Northern Virginia Transportation Authority, established under § 15.2-4830,  Insert: from Planning District Commission 8</p>	This amendment is necessary to conform this section, which allocates the additional regional sales and use tax, to the changes to the sections authorizing the taxes. It has no impact on how the funds are allocated or the amount of funds allocated. It is technical in nature.
25	1515	<p>After: in the  Strike: Northern Virginia Transportation Authority Fund  Insert: fund</p>	This amendment is necessary to conform this section, which allocates the additional regional sales and use tax, to the changes to the sections authorizing the taxes. It has no impact on how the funds are allocated or the amount of funds allocated. It is technical in nature.
25	1516	<p>After: use tax  Strike: in each county and city embraced in the Hampton Roads Region, as described in subsection B of § 33.1-23.5:3,  Insert: from Planning District Commission 23</p>	This amendment is necessary to conform this section, which allocates the additional regional sales tax, to the changes to the sections authorizing the taxes. It has no impact on how the funds are allocated or the amount of funds allocated. It is technical in nature.
25	1518	<p>After: in the  Strike: Hampton Roads Transportation Fund  Insert: fund</p>	This amendment is necessary to conform this section, which allocates the additional regional sales tax, to the changes to the sections authorizing the taxes. It has no impact on how the funds are allocated or the amount of funds allocated. It is technical in nature.

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25	1519	At the beginning of the line Insert: <i>3. The additional revenue generated by increases in the state sales and use tax in any other Planning District Commission pursuant §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, and 58.1-614.1 shall be deposited into special funds that shall be established by appropriate legislation.</i>	This amendment is necessary to conform this section to the changes in the sections authorizing the additional regional taxes. It has no impact on how the funds are allocated or the amount of funds allocated. It is technical in nature.
25	1522	At the beginning of the line: Strike: 3. Insert: 4.	This is a technical amendment.
26	1565	After: <i>under §</i> Strike: <i>33.1-23.03:2</i> Insert: <i>33.1-221.1:1.3</i>	This amendment corrects an incorrect Code citation.
26	1595	After: <i>city</i> Strike: <i>embraced by the Northern Virginia Transportation Authority established pursuant to § 15.2-4830</i>  Insert: <i>in a Planning District as described in this section</i>	This is a technical amendment related to the change below.
26	1597	After: <i>direction.</i> Insert: <i>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).</i>	This amendment expands the applicability of the regional congestion fee to any Planning District meeting the specified criteria. Today, Northern Virginia is the only Planning District meeting these criteria.
27	1604	After: <i>shall be</i> Strike: <i>\$0.25</i> Insert: <i>\$0.15</i>	This amendment reduces the amount of the regional congestion relief fee, or Grantor’s Tax, from \$0.25/\$100 to \$0.15/\$100. The stated revenue goal behind this fee was approximately \$30 million per year. At the rate as passed by the General Assembly, the fee would actually generate \$55 million per year. The original projections were based on incorrect data. This change reduces the amount of the tax, but still generates approximately the same amount of revenue.
27	1607	At the end of the line	This amendment makes technical changes related to the change above. It



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		Insert: <i>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.</i>	provides for an enactment of July 1 following a calendar year in which any other planning district meets the criteria for levying the additional regional sales tax.
27	1616	After: <i>into</i> Strike: <i>the Northern Virginia Transportation Authority Fund under § 15.2-4838.01 as soon as practicable</i> Insert: <i>special funds established by law. In the case of Planning District Commission 8, the revenue generated and collected therein shall be deposited into the fund established in § 15.2-4838.01. For additional Planning District Commissioners that may be subject to this section, funds shall be established for appropriate legislation.</i>	This amendment modifies the language on where the regional congestion relief fee revenues are to be deposited to conform the language to the changes authorizing the tax above. It does not impact where the funds go or the amount of the funds allocated.
28	1676	After: subdivision Insert: <i>A</i>	This is a technical amendment.
28	1710	At the beginning of the line Insert: <i>Regional</i>	This is a technical amendment necessary to conform this line to the changes below.
28	1710	After: <i>Tax</i> Strike: <i>in Northern Virginia</i>	This is a technical amendment necessary to conform this line to the changes below.
28	1711	After: <b>58.1-1742.</b> Strike: <i>Northern Virginia</i> Insert: <b>Regional</b>	This is a technical amendment necessary to conform this line to the changes below.
28	1713	After: <i>rate of</i> Strike: <i>three</i> Insert: <i>two</i>	This amendment reduces the amount of the Transient Occupancy Tax. When the additional 0.3% state sales tax and the 0.7% regional sales tax in Northern Virginia is factored in, a 3% state imposed TOT would have a net impact of a 4% increase. At this rate, some localities in Northern Virginia would be higher than surrounding out-of-state jurisdictions.
28	1714	After: <i>city</i> Strike: <i>embraced by the Northern Virginia Transportation Authority established pursuant to § 15.2-4830</i>  Insert: <i>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 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</i>	This amendment expands the applicability of the transient occupancy tax to any Planning District meeting the specified criteria. Today, Northern Virginia is the only Planning District meeting these criteria. It also makes technical changes by providing for an enactment of July 1 following a calendar year in which any other planning district meets the criteria for levying the additional regional sales tax.



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		<i>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 for 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.</i>	
29	1725	At the beginning of the line: Insert: <i>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.</i>	As passed by the General Assembly, the transient occupancy tax is a state imposed and collected tax that is then remitted to the NVTa. The Department of Taxation does not have the systems in place to collect this tax, and doing so would require a substantial overhaul of their systems. It would also require a delayed enactment. The localities in Northern Virginia, however, currently collect the local transient occupancy tax, and have the ability to collect this additional tax already in place. This change will significantly smooth the collection of this tax, without imposing additional burdens on the localities or the Commonwealth.
29	1728	After: <i>by the</i> Strike: <i>Comptroller in the Northern Virginia Transportation Authority Fund established under § 15.2-4838.01 on at least a monthly basis</i>  Insert: <i>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 Planning District Commission 8, the revenue generated and collected therein shall be deposited into the fund established in § 15.2-4838.01. For additional Planning District Commissioners that may be subject to this section, funds shall be established by appropriate legislation.</i>	This amendment modifies the language on where the regional transient occupancy tax revenues are to be deposited to conform the language to the changes authorizing the tax above. It does not impact where the funds go or the amount of the funds allocated.
32	1922	At the beginning of the line Insert: <i>“Wholesale price” means the price at the rack.</i>	This amendment clarifies that the wholesale price and the rack price are one and the same. It is an administrative amendment, with no impact on the policy of how gasoline is taxed in § 58.1-2217.
32	1925	After: <i>gasohol</i> Strike: <i>until July 1, 2013</i>	This is a technical amendment.
32	1925	After: <i>2013,</i> Strike: <i>the tax rate shall be</i>	This amendment is necessary to clarify that the 3.5% tax on gasoline replaces the 17.5 cents/gallon tax, and is not levied on top of the existing tax.

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Page #	Line #	Amendment	Explanation
		Insert: <i>the seventeen and one-half cents per gallon tax shall be replaced with a tax at a rate of</i>	
32	1926	After: <i>gallon of</i> Strike: <i>self-serve</i>	This is a technical amendment. There is no difference in the price of gasoline or diesel fuel at the wholesale or rack price.
32	1929	After: <i>computing</i> Insert: <i>the</i>	This is a technical amendment.
32	1929	After: <i>gallon of</i> Strike: <i>self-serve</i>	This is a technical amendment. There is no difference in the price of gasoline or diesel fuel at the wholesale or rack price.
32	1930	After: <i>May 31</i> Strike: <i>shall be</i> Insert: <i>as</i>	This is a technical amendment.
32	1935	After: <i>gallon</i> Insert: <i>of</i>	This is a technical amendment.
32	1935	After: <i>gallon of</i> Strike: <i>self-serve</i>	This is a technical amendment. There is no difference in the price of gasoline or diesel fuel at the wholesale or rack price.
32	1937	After: <i>2013,</i> Strike: <i>the tax rate shall be</i> Insert: <i>the seventeen and one-half cents per gallon tax shall be replaced with a tax at a rate of</i>	This amendment is necessary to clarify that the 6% tax on diesel replaces the 17.5 cents/gallon tax, and is not levied on top of the existing tax.
32	1939	After: <i>gallon of</i> Strike: <i>self-serve</i>	This is a technical amendment. There is no difference in the price of gasoline or diesel fuel at the wholesale or rack price.
32	1941	After: <i>computing</i> Insert: <i>the</i>	This is a technical amendment.
32	1941	After: <i>gallon of</i> Strike: <i>self-serve</i>	This is a technical amendment. There is no difference in the price of gasoline or diesel fuel at the wholesale or rack price.
32	1942	After: <i>May 31</i> Strike: <i>shall be</i> Insert: <i>as</i>	This is a technical amendment.
32	1946	After: <i>gallon of</i> Strike: <i>self-serve</i>	This is a technical amendment. There is no difference in the price of gasoline or diesel fuel at the wholesale or rack price.

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32	1955	After: <i>gasoline</i> Insert: <i>and gasohol</i>	This is a technical amendment.
32	1956	After: E. Strike: (Contingent expiration date)	This is a technical amendment.
33	1978	After: Commonwealth. Strike: <i>The provisions of this chapter related to the administration, enforcement, penalties, and record keeping of the taxes imposed herein shall also apply to the collection of the storage tank fee.</i>	This language is a holdover from the introduced legislation which eliminated the tax on gasoline in its entirety. Because the gas tax is being retained, albeit in a different form, this language is no longer necessary.
33	1980	After: A. Strike: (Contingent expiration date)	This is a technical amendment. The contingent effective section is stricken from the Code section, so this language is no longer necessary.
33	1992	At the beginning of the line Strike: <i>\$100</i> Insert: <i>\$64</i>	This amendment reduces the amount of the alternative fuel vehicle fee. The original \$100 fee was based on a tax rate on gas of 17.5 cents/gallon. The legislation as passed imposes a 3.5% SUT on gasoline. This amounts to approximately a 35% reduction in the rate of taxation. As a result, a fee of \$64 will maintain equity in the amount Virginia drivers of different types of vehicles are contributing to maintain Virginia’s roadways.
33	1994	After: <i>vehicle that</i> Insert: <i>(i)</i>	This is a technical amendment.
33	1994	After: <i>subject to</i> Insert: <i>the tax on fuels levied pursuant to subsection A, (ii) is subject to</i>	Natural gas and propane alternative fuel vehicles pay a tax on fuel at a rate equivalent to the rate of tax on gasoline pursuant to subsection A of § 58.1-2249. During the legislative process, amendments were made to exempt drivers of these vehicles from the fee because they already pay an equivalent rate tax. This exemption was left out of the engrossed bill. It also makes technical changes.
33	1995	After: <i>Code</i> Insert: <i>, (iii) that is a moped as defined in § 46.2-100, or (iv)</i>	SB1038 implemented a number of changes dealing with how Virginia treats mopeds and other non-conventional vehicles. Inadvertently, provisions in that legislation, combined with the provisions for the new AFV fee, could subject electric mopeds to the AFV fee. That was not the intent of either piece of legislation, so this amendment clarifies that the fee will not apply to mopeds.
35	2145	After: <i>less</i> Strike: <i>fuel</i>	This is a technical amendment.
35	2146	After: <i>portion of</i>	This is a technical amendment.

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		Insert: <i>the</i>	
35	2146	After: <i>equal to</i> Strike: <i>a 2.5 percent tax rate on such fuel</i> Insert: <i>the difference between the rate of tax on diesel fuel and the rate of tax on gasoline and gasohol pursuant to § 58.1-2217</i>	This amendment clarifies the amount of the refund for drivers of diesel fueled passenger vehicles. It does not alter the substance or the amount of the refund. By making this amendment § 58.1-2259 can be removed from the second enactment.
35	2149	At the end of the line Insert: <i>Notwithstanding any other provision of law, diesel fuel used in a passenger vehicle upon which the fuels tax has been refunded pursuant to this subsection shall be exempt from the tax imposed under Chapter 6 (§ 58.1-600 et seq.).</i>	Under current law, fuels for which the tax is refunded are subject to the Retail Sales and Use Tax unless a specific exemption is in place. Without this language, the refund for diesel fuel passenger vehicles would be subject to the SUT.
37	2222	After: <i>revenues</i> Insert: <i>deposited into the Commonwealth Transportation Fund</i>	This is a technical amendment.
37	2228	At the beginning of the line: Insert: § 58.1-2290.1. <i>Tax on fuel in inventory.</i> <i>A. In addition to any other tax levied under this chapter, there is hereby levied a tax on taxable gasoline, gasohol, and diesel fuel held in storage by a licensed distributor as of the close of the business day preceding July 1, 2013. For the purposes of this section, “close of the business day” means the time at which the last transaction has occurred for that day. The tax shall be payable by the licensed distributor. The amount of the tax liability shall be determined separately for gasoline and gasohol and for diesel fuel and shall be calculated as the difference between (i) the tax rate specified for the type of fuel under § 58.1-2217 and (ii) the tax rate as specified for that type of fuel under § 58.1-2217 as it was in effect on June 30, 2013, multiplied by the gallons of that type of fuel in storage as of the close of the business day preceding July 1, 2013.</i> <i>B. A licensed distributor in possession of taxable gasoline, gasohol, or diesel fuel in storage as of the close of the business day preceding July 1, 2013, shall take an inventory at the close of that day to determine the gallons in storage for each type of fuel and shall report this inventory, on forms provided by the Commissioner, no later than January 1, 2014. In addition:</i> <i>1. If the net amount of the tax liability for all fuel types is a positive number, the distributor shall remit that amount to the</i>	<p>This amendment addresses concerns expressed by the gasoline industry, DMV, and DEQ regarding the amendments to § 58.1-2230 in the conference report, which have been removed from the legislation pursuant to the amendments above. Language was inserted into the conference report to address concerns about tax paid fuel held in storage on the date of transition from the 17.5 cents per gallon tax to the 3.5% or 6% tax on gasoline and diesel, respectively. The language in the conference report was intended to provide a onetime transition period wherein the industry would have 6 months to file their tax returns and remit their taxes.</p> <p>The language, however, unintentionally changed the time frame to six months on a permanent basis. This language presents a couple of problems. First, it conflicts with other provisions within § 58.1-2230. Second, it would lead to a four month period wherein the Commonwealth would not collect any motor fuels taxes or storage tank fees.</p> <p>The language in the amendment addresses these concerns. It also replaces the existing Floorstocks Tax that was put in place in 2001 when the motor fuels tax was moved from the distributor level to the terminal rack.</p> <p>At the close of the business day on June 30, 2013, the industry will take an inventory of the tax paid fuel in inventory. The amount of tax owed will be the difference between the tax at the old rate and the new rate. Because the amount of the gasoline tax is being reduced, most taxpayers should receive a refund. In the event the difference exceeds the taxes paid at the old rate, the</p>

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		<p><i>Department no later than January 1, 2014.</i></p> <p><i>2. If the net amount of the tax liability for all fuel types is a negative number, the distributor may apply to the Department for a refund of that amount no later than January 1, 2014. However, the Department shall not issue any such refund prior to September 1, 2013.</i></p> <p><i>C. In determining the amount of the tax liability under this section, the licensed distributor shall exclude the amount of taxable fuel in dead storage. “Dead storage” means the amount of taxable fuel that will not be pumped out of a storage tank because that fuel is below the mouth of the draw pipe. The distributor may assume that the amount of fuel in dead storage is 200 gallons for a draw tank with a capacity of less than 10,000 gallons and 400 gallons for a tank with a capacity of 10,000 gallons or more. Alternatively, the amount of fuel in dead storage in a tank may be computed using the manufacturer’s conversion table for the tank and the number of inches between the bottom of the tank and the mouth of the draw pipe. If the conversion table method is used to compute the amount of fuel in dead storage, the distance between the bottom of the tank and the mouth of the draw pipe will be assumed to be six inches, unless otherwise established.</i></p>	<p>taxpayer would owe additional taxes; however, few if any taxpayers should be impacted.</p> <p>This mechanism for transitioning from one motor fuels tax to another has worked successfully before and will ensure a smooth transition with no unintended consequences.</p>
37	2267	<p>After: <i>that is</i></p> <p>Strike: <i>embraced in the Hampton Roads Region, as defined in subsection B of § 33.1-23.5:3</i></p> <p>Insert: <i>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 2 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 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)</i></p>	<p>This amendment expands the applicability of the 2.1% regional motor fuels tax to any Planning District meeting the specified criteria. Today, Hampton Roads is the only Planning District meeting these criteria. It also makes technical changes by providing for an enactment of July 1 following a calendar year in which any other planning district meets the criteria for levying the additional regional sales tax.</p>

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		<i>such tax shall be effective beginning on the July 1 immediately following the calendar year in which all of the criteria have been met.</i>	
38	2303	After: <i>county</i> Strike: <i>of</i> Insert: <i>or</i>	This is a technical amendment.
38	2305	After: <i>deposited</i> Strike: <i>in the Hampton Roads Transportation Fund established under § 33.1-23.5:3 and used solely for the purposes set forth therein</i>  Insert: <i>into special funds established by law. In the case of Planning District Commission 23, the revenue generated and collected therein shall be deposited into the fund established in § 33.1-23.5:3. For additional Planning District Commissions that may be subject to this section, funds shall be established by appropriate legislation.</i>	This amendment modifies the language on where the regional gas tax revenues are to be deposited to conform the language to the changes authorizing the tax above. It does not impact where the funds go or the amount of the funds deposited.
39	2340	After: <i>rebate or</i> Insert: <i>manufacturer</i>	This is a technical amendment to clarify that the rebate and incentive must be offered by the manufacturer as it relates to the sales price when computing the titling tax for motor vehicles.
39	2352	After: <i>percent</i> Insert: <i>(4.0%)</i>	This is a technical amendment.
39	2353	After: <i>four and</i> Strike: <i>one-tenth of a percent</i> Insert: <i>five-hundredths of a percent (4.05%)</i>	This amendment, in conjunction with the following amendments, reduces the phase in of an additional 0.3% titling tax to 0.15% so that the total rate becomes 4.15% for FY 2017 and thereafter.
39	2354	After: <i>four and</i> Strike: <i>two-tenths of a percent</i> Insert: <i>one-tenth of a percent (4.1%)</i>	This amendment, in conjunction with the amendment above and below, reduces the phase in of an additional 0.3% titling tax to 0.15% so that the total rate becomes 4.15% for FY 2017 and thereafter.
39	2355	After: <i>four an</i> Strike: <i>three-tenths of a percent</i> Insert: <i>fifteen-hundredths (4.15%)</i>	This amendment, in conjunction with the amendments above, reduces the phase in of an additional 0.3% titling tax to 0.15% so that the total rate becomes 4.15% for FY 2017 and thereafter.
39	2365	After: <i>percent</i> Insert: <i>(4.0%)</i>	This is a technical amendment.

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39	2366	After: <i>four and</i> Strike: <i>one-tenth of a percent</i> Insert: <i>five-hundredths of a percent (4.05%)</i>	This amendment, in conjunction with the following amendments, reduces the phase in of an additional 0.3% titling tax to 0.15% so that the total rate becomes 4.15% for FY 2017 and thereafter.
39	2367	After: <i>four and</i> Strike: <i>two-tenths of a percent</i> Insert: <i>one-tenth of a percent (4.1%)</i>	This amendment, in conjunction with the amendment above and below, reduces the phase in of an additional 0.3% titling tax to 0.15% so that the total rate becomes 4.15% for FY 2017 and thereafter.
39	2368	After: <i>four an</i> Strike: <i>three-tenths of a percent</i> Insert: <i>fifteen-hundredths (4.15%)</i>	This amendment, in conjunction with the amendments above, reduces the phase in of an additional 0.3% titling tax to 0.15% so that the total rate becomes 4.15% for FY 2017 and thereafter.
40	2431	After: <i>credit</i> Insert: <i>for diesel fuel</i>	This is a technical amendment related to administration of the Road Tax at the new tax rate on diesel fuel.
40	2456	After: <i>credit</i> Insert: <i>for diesel fuel</i>	This is a technical amendment related administration of motor fuels tax credits under the new rates of taxation.
40	2458	At the end of the line Insert: <i>The credit for all other motor fuels and liquefied gases shall be at a cents per gallon rate equivalent to the tax imposed under subsection A of § 58.1-2217 for the relevant period as converted by the Commission to a cents per gallon tax for purposes of this credit.</i>	This is a technical amendment related administration of motor fuels tax credits under the new rates of taxation.
41	2478	After: § Strike: §	This is a technical amendment.
41	2478	After: <b>58.1-2217</b> Strike: <b>and 58.1-2259</b>	This amendment eliminates § 58.1-2259 from the second enactment. Due to amendments made to this section in the first enactment, the changes in the second enactment are no longer necessary.
41	2478	After: <b>Virginia</b> Strike: <b>are</b> Insert: <b>is</b>	This is a technical amendment.
41	2484	After: <i>gasohol</i> Strike: <i>until July 1, 2013</i>	This is a technical amendment to conform § 58.1-2217 in the second enactment to changes in the first enactment.
41	2485	After: <i>gallon of</i> Strike: <i>self-serve</i>	This is a technical amendment. There is no difference in the price of gasoline or diesel fuel at the wholesale or rack price.



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41	2487	After: <i>computing</i> Insert: <i>the</i>	This is a technical amendment.
41	2487	After: <i>gallon of</i> Strike: <i>self-serve</i>	This is a technical amendment. There is no difference in the price of gasoline or diesel fuel at the wholesale or rack price.
41	2488	After: <i>May 31</i> Strike: <i>shall be</i> Insert: <i>as</i>	This is a technical amendment.
41	2492	At the beginning of the line Strike: <i>self-serve</i>	This is a technical amendment. There is no difference in the price of gasoline or diesel fuel at the wholesale or rack price.
41	2496	After: <i>gallon of</i> Strike: <i>self-serve</i>	This is a technical amendment. There is no difference in the price of gasoline or diesel fuel at the wholesale or rack price.
41	2498	After: <i>computing</i> Insert: <i>the</i>	This is a technical amendment.
41	2498	After: <i>gallon of</i> Strike: <i>self-serve</i>	This is a technical amendment. There is no difference in the price of gasoline or diesel fuel at the wholesale or rack price.
41	2499	After: <i>May 31</i> Strike: <i>shall be</i> Insert: <i>as</i>	This is a technical amendment.
41	2503	At the beginning of the line Strike: <i>self-serve</i>	This is a technical amendment. There is no difference in the price of gasoline or diesel fuel at the wholesale or rack price.
41	2512	After: <i>gasoline</i> Insert: <i>and gasohol</i>	This is a technical amendment.
41	2513	After: E. Strike: (Contingent expiration date)	This is a technical amendment.
42	Line 2534	After: Commonwealth. Strike: <i>The provisions of this chapter related to the administration, enforcement, penalties, and record keeping of the taxes imposed herein shall also apply to the collection of the storage tank fee.</i>	This language is a holdover from the introduced legislation which eliminated the tax on gasoline in its entirety. Because the gas tax is being retained, albeit in a different form, this language is no longer necessary.
42	2538	After: <b>by</b> Strike: <b>such date</b> Insert: <b>January 1, 2015</b>	This is a technical amendment.
42	2539	After: <b>Fund</b>	This is a technical amendment.



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		Insert: <b>pursuant to subsection G of § 58.1-638 as added by this act</b>	
42	2542	After: <b>effective,</b> Insert: <b>58.1-2290,</b>	This amendment repeals the existing Floorstocks Tax in conjunction with the amendments above dealing with industry and agency concerns over transitioning to the 3.5%/6% taxes on motor fuels. This section was put in place in 2001 when the motor fuels tax was moved from the retail price to the rack price. It is outdated, no longer needed, and being replaced by § 58.1-2290.1.
42	2545	After: <b>under</b> Insert: <b>subdivision F 2 and</b>	This is a technical amendment
42	2546	After: <b>G</b> Strike: <b>,</b> Insert: <b>and</b>	This is a technical amendment.
42	2546	After: <b>H</b> Strike: <b>, and I</b>	This is a technical amendment.
42	2556	At the beginning of the line Insert: <b>Notwithstanding the foregoing provisions of this enactment, in the event that all conditions for the dedication of funds are satisfied, the Commonwealth Transportation Board may provide funding from other available revenue sources to satisfy the requirements of this provision in order to maximize the use of the increased revenues provided in this act.</b>	This amendment grants the Commonwealth Transportation Board flexibility in determining which revenue sources to use when providing the \$300 million to Phase II of the Dulles Metrorail Project, provided the conditions are met.
42	2560	After: <b>act</b> Strike: <b>relating to the authority to compel remote sellers to collect the Commonwealth’s sales and use tax on sales made in the Commonwealth</b> Insert: <b>amending §§ 58.1-601, 58.1-602, 58.1-605, 58.1-606, 58.1-612, as it is currently and as it may become effective, 58.1-615, 58.1-625, 58.1-635, 58.1-638.2, and subdivision 5 of § 58.1-604, and repealing § 58.1-609.13,</b>	This amendment is technical. It clarifies exactly which provisions are contingent upon Congress enacting the Marketplace Fairness Act..
42	2563	After: <b>unless</b> Strike: <b>(i)</b>	This is a technical amendment.
42	2565	After: <b>Commonwealth</b> Strike: <b>and (ii) the Tax Commissioner publishes notice in the Virginia Register of Regulations that declares that conformity</b>	This amendment removes the delegation of legislative authority to the Tax Commissioner over whether or not to implement the MEA provisions.

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		to the federal act is cost effective, generates additional sales and use tax revenues for the Commonwealth of not less than \$250 million annually, is not in conflict with the Constitution of Virginia, and is otherwise advantageous to the Commonwealth, and adheres to all notice requirements set forth in the federal act. Before publishing such public notice, the Tax Commissioner shall consult with the Governor to determine whether conformity to any provision of the federal act is not advantageous to the Commonwealth.	
42	2565	After: <b>into the</b> Strike: <b>Commonwealth.</b> Insert: <b>respective state. If the federal government enacts such legislation, then such amendments and the repeal of § 58.1-609.13 shall become effective 30 days after the effective date of the federal legislation.</b>	This is a technical amendment. It also provides that the provisions related to the Marketplace Fairness Act will take effect 30 days after enactment of such legislation by Congress.
42	2570	After: <b>act</b> Insert: <b>and to ensure that such towns receive their respective share of the revenues pursuant to subdivision B 1 of § 15.2-4838.1</b>	This amendment addresses concerns expressed by the towns in Northern Virginia. It will help ensure that they receive a portion of the revenues attributed to each jurisdiction.
42	2575	After: <b>101</b> Strike: <b>area</b> Insert: <b>areas</b>	This is a technical amendment.
42	2575	After: <b>studies.</b> Insert: <b>Such congestion has an average commuter cost of nearly \$1,400 in Northern Virginia and \$877 per commuter in Hampton Roads. Such congestion negatively impacts Virginia’s economic prosperity, strategic military connectivity, emergency preparedness, and environmental quality. Regions with populations in excess of 1.5 million citizens and 1.2 million registered vehicles are prone to greater levels of congestion and growing transit needs. Therefore, the General Assembly finds that transportation construction and maintenance in the Northern Virginia and Hampton Roads regions are high priorities, and that as other regions of the Commonwealth continue to grow, the same priority shall be given.</b>	This amendment adds additional rationale to the findings in this enactment.

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43	2584	<p>After: <b>10.</b>  Strike: <b>That each county or city embraced by the Northern Virginia Transportation Authority shall expend or disburse for transportation purposes an amount that is at least equal to the total amount expended or disbursed for transportation purposes by the county or city in its fiscal year that began on July 1, 2012. Each county or city embraced in the Hampton Roads Region, as described in subsection B of § <u>33.1-23.5:3</u>, shall expend or disburse for transportation purposes an amount that is at least equal to the total amount expended or disbursed for transportation purposes by the county or city in its fiscal year that began on July 1, 2007.</b></p> <p>Insert: <b>That each county or city located in Planning District 8 or Planning District 23 as of January 1, 2013, shall expend or disburse for transportation purposes each year an amount that is at least equal to the average annual amount expended or disbursed for transportation purposes by the county or city, excluding bond proceeds or debt service payments and federal or state grants, between July 1, 2010, and June 30, 2013. Each county or city located in any other Planning District that becomes subject to the state taxes or fees imposed solely in Planning Districts pursuant to this act shall expend or disburse for transportation purposes each year an amount that is at least equal to the average annual amount expended or disbursed for transportation purposes by the county or city, excluding bond proceeds or debt service payment and federal or state grants during the 36 month period immediately prior to the effective date of the imposition of such state taxes or fees in the Planning District. In the event that any such county or city does not expend or disburse such an amount, that county or city shall not be the direct beneficiary of any of the revenues generated by the state taxes or fees imposed solely in Planning Districts pursuant to this act in the immediately succeeding year.</b></p>	<p>Enactment 10 deals with local maintenance of effort requirements so that the local governments do not stop allocating local funding to transportation with the addition of the new revenues. Several local governments have expressed concerns about being locked in at a specific year, wherein the locality may have sold bonds and/or been the recipient of a state or federal grant. This amendment changes the maintenance of effort provisions to be an average over a three year period and excludes bond proceeds and other onetime revenues. It also conditions receipt of the benefits of the new regional revenues on continuing to contribute local funds to transportation.</p>
43	2606	<p>After: <b>from the</b>  Strike: <b>Highway Maintenance and Operating</b>  Insert: <b>highway construction share of the Transportation</b></p>	<p>As passed, the legislation dedicates \$20 million per year from the HMOF to the Route 58 Corridor Development Fund. Utilizing operational/maintenance funds to support capital projects would deplete revenues for these critical</p>

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		<b>Trust</b>	functions and reduce needed flexibility. This amendment would take the funding from the Transportation Trust Fund, which is the fund that supports transportation related capital projects.
43	2608	After: <b>fees</b> Strike: <b>imposed only in Northern Virginia and the Hampton Roads area</b> Insert: <b>for transportation (i) throughout the Commonwealth and in Planning District 8 and Planning District 23 or (ii) in any other Planning District that becomes subject to the state taxes or fees imposed solely in Planning Districts pursuant to this act</b>	This amendment expands the local lockbox provision and makes it a statewide lockbox applied to all additional funds contained in the legislation.
43	2612	After: <b>Assembly</b> Strike: <b>, any locality, or any Authority</b>	This amendment eliminates a single locality’s ability to terminate the additional regional taxes.
43	2612	After: <b>such</b> Insert: <b>additional</b>	This is a technical amendment to clarify that the language is only referring to the additional revenues generated by the act.
43	2613	After: <b>or</b> Strike: <b>for any project outside the geographic boundaries provided in this act</b> Insert: <b>transfers any of such additional revenues that are to be deposited into the Commonwealth Transportation Fund or any subfund thereof pursuant to general law for a non-transportation related purpose. In the event a local government of any county or city wherein the additional taxes and fees are levied appropriates or allocates any of such additional revenues to a non-transportation related purpose, such locality shall not be the direct beneficiary of any of the revenues generated by the taxes or fees in the year immediately succeeding the year in which the revenues were appropriated or allocated to a non-transportation related purpose.</b>	This amendment does two things. First, it expands the lockbox provision to include any general law that transfers any of the additional funding in this act to a non-transportation related purpose. Second, it specifies that any local government that transfers the additional regional taxes or fees to a non-transportation related purpose will not receive its portion of the revenues in the immediately succeeding year.
43	2621	After: <b>on</b> Insert: <b>or after</b>	This is a technical amendment.
43	2623	After: <b>into the</b> Strike: <b>Commonwealth</b> Insert: <b>respective state</b>	This is a technical amendment.

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**Summary of Amendments in Governor’s Substitute**

<b>Page #</b>	<b>Line #</b>	<b>Amendment</b>	<b>Explanation</b>
43	2627	After: <b>16.</b> Insert: <b>That the Department of Taxation shall develop and publish guidelines implementing the provisions of this act relating to the state Retail Sales and Use Tax increase, the regional state sales and use taxes, and the regional state Transient Occupancy Tax and shall update such guidelines thereafter as deemed necessary by the Tax Commissioner. The development and publication of such guidelines and rules shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.)</b>	This amendment expressly grants the Tax Commissioner the authority to develop and publish guidelines related to the additional state and regional taxes.
43	2632	Insert: <b>17. That the Virginia Department of Transportation, the Department of the Treasury, the Department of Taxation, and any other department or group necessary, shall conduct a review of the implementation of the regional taxing authorities as provided by this act. The purpose of such review shall be to determine what additional powers and authorities regional transportation authorities, commissions, etc. may need to ensure the proper utilization of the regional revenues. Such review shall include whether bonding authority should be authorized if a local transportation entity does not already have such authority. The departments shall issue and report and make recommendations, if any are necessary, to the General Assembly no later than December 1, 2013.</b>	This amendment requires several Executive Branch departments to review and report on the implementation of the regional taxes authorized by this act to ensure that regional entities responsible for utilizing the revenues have all of the appropriate tools to do so.
43	2640	At the beginning of the line: Strike: <b>16.</b> Insert: <b>18.</b>	This is a technical amendment.

13105691D

## HOUSE BILL NO. 2313

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Governor  
on March 25, 2013)

(Patron Prior to Substitute—Delegate Howell, W.J.)

A BILL to amend and reenact §§ 15.2-4838.1, 33.1-23.03:8, 33.1-23.5:1, 33.1-221.1:1.3, 58.1-300, 58.1-520, as it is currently effective and as it may become effective, 58.1-601, 58.1-602, 58.1-603, 58.1-604, 58.1-604.1, 58.1-605, 58.1-606, 58.1-608.3, 58.1-612, as it is currently effective and as it may become effective, 58.1-614, 58.1-615, 58.1-625, as it is currently effective and as it shall become effective, 58.1-635, 58.1-638, 58.1-639, 58.1-811, 58.1-2201, 58.1-2217, 58.1-2249, 58.1-2251, 58.1-2259, 58.1-2289, as it is currently effective, 58.1-2295, 58.1-2299.20, 58.1-2401, 58.1-2402, 58.1-2425, 58.1-2701, as it is currently effective, and 58.1-2706 of the Code of Virginia; to amend Chapter 896 of the Acts of Assembly of 2007; to amend the Code of Virginia by adding sections numbered 15.2-4838.01, 33.1-23.5:3, 58.1-603.1, 58.1-604.01, 58.1-638.2, 58.1-638.3, 58.1-802.2, and 58.1-2290.1; to amend the Code of Virginia by adding in Chapter 17 of Title 58.1 an article numbered 10, consisting of a section numbered 58.1-1742; and to repeal Article 22 (§§ 58.1-540 through 58.1-549) of Chapter 3 of Title 58.1 of the Code of Virginia, §§ 58.1-609.13, 58.1-2289 as it may become effective, 58.1-2290, and 58.1-2701, as it may become effective, of the Code of Virginia, and the second enactment of Chapter 822 of the Acts of Assembly of 2009, as amended by Chapter 535 of the Acts of Assembly of 2012, relating to revenues and appropriations primarily for transportation.

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-4838.1, 33.1-23.03:8, 33.1-23.5:1, 33.1-221.1:1.3, 58.1-300, 58.1-520, as it is currently effective and as it may become effective, 58.1-601, 58.1-602, 58.1-603, 58.1-604, 58.1-604.1, 58.1-605, 58.1-606, 58.1-608.3, 58.1-612, as it is currently effective and as it may become effective, 58.1-614, 58.1-615, 58.1-625, as it is currently effective and as it shall become effective, 58.1-635, 58.1-638, 58.1-639, 58.1-811, 58.1-2201, 58.1-2217, 58.1-2249, 58.1-2251, 58.1-2259, 58.1-2289, as it is currently effective, 58.1-2295, 58.1-2299.20, 58.1-2401, 58.1-2402, 58.1-2425, 58.1-2701, as it is currently effective, and 58.1-2706 of the Code of Virginia and Chapter 896 of the Acts of Assembly of 2007 are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 15.2-4838.01, 33.1-23.5:3, 58.1-603.1, 58.1-604.01, 58.1-638.2, 58.1-638.3, 58.1-802.2, and 58.1-2290.1 and by adding in Chapter 17 of Title 58.1 an article numbered 10, consisting of a section numbered 58.1-1742, as follows:

§ 15.2-4838.01. *Northern Virginia Transportation Authority Fund established.*

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, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All revenues dedicated to the Fund pursuant to §§ 58.1-638, 58.1-802.2, and 58.1-1742, any other funds that may be appropriated by the General Assembly, and any funds that may be received for the credit of the Fund from any other source shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

The amounts dedicated to the Fund pursuant to §§ 58.1-638, 58.1-802.2, and 58.1-1742 shall be deposited monthly by the Comptroller into the Fund and thereafter distributed to the Northern Virginia Transportation Authority as soon as practicable for use in accordance with § 15.2-4838.1. 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 § 15.2-4838.1, the Authority may invest such excess moneys to the same extent as provided in § 33.1-23.03:5 for excess funds in the Transportation Trust Fund.

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

§ 15.2-4838.1. *Use of certain revenues by the Authority.*

A. All moneys received by the Authority and the proceeds of bonds issued pursuant to § 15.2-4839 shall be used by the Authority solely for transportation purposes benefiting those counties and cities that are embraced by the Authority.

B. ~~Forty~~ 1. Except as provided in subdivision 2, 30 percent of the revenues received by the Authority

under subsection A shall be distributed on a pro rata basis, with each locality's share being the total of such fees ~~fee~~ and taxes assessed or imposed by the Authority and received by the Authority that are generated or attributable to the locality divided by the total of such fees ~~fee~~ and taxes assessed or imposed by the Authority and received by the Authority. Of the revenues distributed pursuant to this subsection (i) in the Cities of Alexandria, Fairfax, and Falls Church and the County of Arlington the first 50% shall be used solely for urban or secondary road construction and improvements and for public transportation purposes, and (ii) in the remaining localities, the first 50% shall be used solely for urban or secondary road construction and improvements. The remainder, as determined solely by the applicable locality, such revenues shall be used either for additional urban or secondary road construction; for other capital improvements that reduce congestion; for other transportation capital improvements which have been approved by the most recent long range transportation plan adopted by the Authority; or for public transportation purposes. Solely for purposes of calculating the 40% of revenues to be distributed pursuant to this subsection, the revenue generated pursuant to § 58.1-3221.3 and Article 8 (§ 15.2-2317 et seq.) of Chapter 22 of this title by the counties and cities embraced by the Authority shall be considered revenue of the Authority. None of the revenue distributed by this subsection may be used to repay debt issued before July 1, 2007 2013. Each locality shall create a separate, special fund in which all revenues received pursuant to this subsection and from the tax imposed pursuant to § 58.1-3221.3 shall be deposited. Each locality shall provide annually to the Northern Virginia Transportation Authority sufficient documentation as required by the Authority showing that the funds distributed under this subsection were used as required by this subsection.

2. If a locality has not deposited into its special fund (i) revenues from the tax collected under § 58.1-3221.3 pursuant to the maximum tax rate allowed under that section or (ii) an amount, from sources other than moneys received from the Authority, that is equivalent to the revenue that the locality would receive if it was imposing the maximum tax authorized by § 58.1-3221.3, then the amount of revenue distributed to the locality pursuant to subdivision 1 shall be reduced by the difference between the amount of revenue that the locality would receive if it was imposing the maximum tax authorized by such section and the amount of revenue deposited into its special fund pursuant to clause (i) or (ii), as applicable. The amount of any such reduction in revenue shall be redistributed according to subsection C. The provisions of this subdivision shall be ongoing and apply over annual periods as determined by the Authority.

C. 1. The remaining 60% 70 percent of the revenues from such sources received by the Authority under subsection A, plus the amount of any revenue to be redistributed pursuant to subsection B, shall be used by the Authority solely for transportation projects and purposes that benefit the counties and cities embraced by the Authority to fund (i) transportation projects selected by the Authority that are contained in the regional transportation plan in accordance with § 15.2-4830 and that have been rated in accordance with § 33.1-13.03:1 or (ii) mass transit capital projects that increase capacity. For only those regional funds received in fiscal year 2014, the requirement for rating in accordance with § 33.1-13.03:1 shall not apply. The Authority shall give priority to selecting projects that are expected to provide the greatest congestion reduction relative to the cost of the project and shall document this information for each project selected. Such projects selected by the Authority for funding shall be located (a) only in localities embraced by the Authority or (b) in adjacent localities but only to the extent that such extension is an insubstantial part of the project and is essential to the viability of the project within the localities embraced by the Authority.

1. The revenues under this subsection shall be used first to pay any debt service owing on any bonds issued pursuant to § 15.2-4839, and then as follows:

a. The next \$50 million each fiscal year shall be distributed to the Washington Metropolitan Area Transit Authority (WMATA) and shall be used for capital improvements benefiting the area embraced by the Authority for WMATA's transit service (Metro). The Authority shall first make use of that portion of such annual distribution as may be necessary under the requirements of federal law for the payment of federal funds to WMATA, but only if the matching federal funds are exclusive of and in addition to the amount of other federal funds appropriated for such purposes and are in an amount not less than the amount of such funds appropriated in the federal fiscal year ending September 30, 2007;

For each year after 2018 any portion of the amount distributed pursuant to this subsection may be used for mass transit improvements in Prince William County;

b. The next \$25 million each fiscal year shall be distributed to the Virginia Railway Express for operating and capital improvements, including but not limited to track lease payments, construction of parking, dedicated rail on the Fredericksburg line, rolling stock, expanded service in Prince William County, and service as may be needed as a result of the Base Realignment and Closure Commission's action regarding Fort Belvoir.

2. All transportation projects undertaken by the Northern Virginia Transportation Authority shall be completed by private contractors accompanied by performance measurement standards, and all contracts shall contain a provision granting the Authority the option to terminate the contract if contractors do not

meet such standards. Notwithstanding the foregoing, any locality may provide engineering services or right-of-way acquisition for any project with its own forces. The Authority shall avail itself of the strategies permitted under the Public-Private Transportation Act (§ 56-556 et seq.) whenever feasible and advantageous. The Authority is independent of any state or local entity, including the Virginia Department of Transportation (VDOT) and the Commonwealth Transportation Board (CTB), but the Authority, VDOT and CTB shall consult with one another to avoid duplication of efforts and, at the option of the Authority, may combine efforts to complete specific projects. Notwithstanding the foregoing, at the request of the Authority, VDOT may provide the Authority with engineering services or right-of-way acquisition for the project with its own forces. ~~When determining what projects to construct under this subsection, the Authority shall base its decisions on the combination that (i) equitably distributes the funds throughout the localities, and (ii) constructs projects that move the most people or commercial traffic in the most cost-effective manner, and on such other factors as approved by the Authority.~~

3. All revenues deposited to the credit of the Authority shall be used for projects benefiting the localities embraced by the Authority, ~~with each locality's total long-term benefits being approximately equal to~~ *With regard to the revenues distributed under subdivision 1, each locality's total long-term benefit shall be approximately equal to the proportion of the total of the fees and taxes received by the Authority that are generated by or attributable to the locality divided by the total of such fees and taxes received by the Authority.*

D. For road construction and improvements pursuant to subsection B, the Department of Transportation may, on a reimbursement basis, provide the locality with planning, engineering, right-of-way, and construction services for projects funded in whole by the revenues provided to the locality by the Authority.

**§ 33.1-23.03:8. Priority Transportation Fund established.**

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. ~~A portion of the moneys actually collected, including penalty and interest, attributable to any increase in revenues from the taxes imposed under Chapter 22 (§ 58.1-2200 et seq.) of Title 58.1, with such increase being calculated as the difference between such tax revenues collected in the manner prescribed under Chapter 22 less such tax revenues that would have been collected using the prescribed manner in effect immediately before the effective date of Chapter 22, computed without regard to increases in the rates of taxes under Chapter 22 pursuant to enactments of the 2007 Session of the General Assembly. The portion to be deposited to the Fund shall be the moneys actually collected from such increase in revenues and allocated for highway and mass transit improvement projects as set forth in § 33.1-23.03:2, but not including any amounts that are allocated to the Commonwealth Port Fund and the Commonwealth Airport Fund under such section. There shall also be deposited into the Fund all additional federal revenues attributable to Chapter 22 (§ 58.1-2200 et seq.) of Title 58.1;~~

2. 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 and (ii) the allocation to highway and mass transit improvement projects as set forth in § 33.1-23.03:2, but not including any amounts that are allocated to the Commonwealth Port Fund and the Commonwealth Airport Fund under such section;

3. 2. All revenues deposited into the Fund pursuant to § 58.1-2531;

3. All revenues deposited into the Fund pursuant to subsection E of § 58.1-2289; 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 ~~of this section~~. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller.

B. The Commonwealth Transportation Board shall use the Fund to facilitate the financing of priority transportation projects throughout the Commonwealth. The Board may use the Fund either (i) by expending amounts therein on such projects directly, (ii) by payment to any authority, locality, commission or other entity for the purpose of paying the costs thereof, or (iii) by 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



§ 33.1-23.1 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, however, that, at the discretion of the Commonwealth Transportation 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%~~ 100 percent of the contractually required debt service payments on all such bonds, including any interest related thereto and the retirement of such bonds.

**§ 33.1-23.5:1. Funds for counties which have withdrawn or elect to withdraw from the secondary system of state highways.**

Notwithstanding the provisions of § 33.1-23.5, pursuant to subsection A of § 33.1-23.1, the Commonwealth Transportation Board shall make the following payments to counties which have withdrawn or elect to withdraw from the secondary system of state highways under the provisions of § 11 of Chapter 415 of the Acts of Assembly of 1932, and which have not elected to return: to any county having withdrawn prior to June 30, 1985, and having an area greater than 100 square miles, an amount equal to ~~\$3,616 per lane-mile for fiscal year 1986;~~ *\$12,529 per moving lane-mile for fiscal year 2014*, and to any county having an area less than 100 square miles, an amount equal to ~~\$7,201 per lane-mile for fiscal year 1986~~ *\$17,218 per moving lane-mile for fiscal year 2014*; to any county that elects to withdraw after June 30, 1985, the Commonwealth Transportation Board shall establish a rate per lane-mile for the first year using (i) an amount for maintenance based on maintenance standards and unit costs used by the Department of Transportation to prepare its secondary system maintenance budget for the year in which the county withdraws; and (ii) an amount for administration equal to five percent of the maintenance figure determined in *clause* (i) above. The payment rates shall be adjusted annually by the Board in accordance with procedures established for adjusting payments to cities and towns under § 33.1-41.1, and lane mileage shall be adjusted annually to include (i) streets and highways accepted for maintenance in the county system by the local governing body; or (ii) streets and highways constructed according to standards set forth in the county subdivision ordinance or county thoroughfare plan, and being not less than the standards set by the Department of Transportation. Such counties shall, in addition, each receive for construction from funds allocated pursuant to subdivision B 3 of § 33.1-23.1 an annual amount calculated in the same manner as payments for construction in the state secondary highway system are calculated.

Payment of the funds shall be made in four equal sums, one in each quarter of the fiscal year, and shall be reduced, in the case of each such county, by the amount of federal-aid construction funds credited to each such county.

The chief administrative officer of such counties receiving such funds shall make annual reports of expenditures to the Board, in such form as the Board shall prescribe, accounting for all expenditures, including delineation between construction and maintenance expenditures and reporting on their performance as specified in subdivision B 3 of § 33.1-23.02. Such reports shall be included in the scope of the annual audit of each county conducted by independent certified public accountants.

**§ 33.1-23.5:3. Hampton Roads Transportation Fund established.**

*There is hereby created in the state treasury a special nonreverting fund for Planning District 23 to be known as the Hampton Roads Transportation Fund, hereafter referred to 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 Chapter 22.1 (§ 58.1-2291 et seq.) of Title 58.1 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 moneys deposited in the fund shall be used solely for new construction projects on new or existing roads, bridges, and tunnels in the localities comprising Planning District 23 as approved by the Hampton Roads Transportation Planning Organization. The Hampton Roads Transportation Planning Organization shall give priority to those projects that are expected to provide the greatest impact on reducing congestion and shall ensure that the moneys shall be used for such construction projects in all localities comprising Planning District 23.*

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

**§ 33.1-221.1:1.3. Intercity Passenger Rail Operating and Capital Fund.**

A. The General Assembly declares it to be in the public interest that developing and continuing intercity passenger rail operations and the development of rail infrastructure, rolling stock, and support facilities to support intercity passenger 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 rail-related infrastructure improvements and operations are essential to the Commonwealth's continued economic growth, vitality, and competitiveness in national and world markets.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Intercity Passenger Rail Operating and Capital Fund, which shall be considered a special fund within the Transportation Trust Fund. The Intercity Passenger Rail Operating and Capital Fund shall be established on the books of the Comptroller and shall consist of funds *designated pursuant to subdivision A 2 of § 58.1-638.3* and as may be set forth in the appropriation act and by allocation of funds for operations and projects pursuant to this section by the Commonwealth Transportation Board in accordance with § 33.1-23.1. Interest earned on moneys in the Intercity Passenger Rail Operating and Capital Fund shall remain in the Intercity Passenger Rail Operating and Capital Fund and be credited to it. Any moneys remaining in the Intercity Passenger Rail Operating and Capital Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Intercity Passenger Rail Operating and Capital Fund. Moneys in the Intercity Passenger Rail Operating and Capital Fund shall be used solely as provided in this section. Expenditures and disbursements from the Intercity Passenger Rail Operating and Capital Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Virginia Department of Rail and Public Transportation or his designee.

C. The Director of the Virginia Department of Rail and Public Transportation or his designee shall administer and expend or commit, subject to the approval of the Commonwealth Transportation Board, the Intercity Passenger Rail Operating and Capital Fund to support the cost of operating intercity passenger rail service; acquiring, leasing, and/or improving railways or railroad equipment, rolling stock, rights-of-way, or facilities; or assisting other appropriate entities to acquire, lease, or improve railways or railroad equipment, rolling stock, rights-of-way, or facilities for intercity passenger rail transportation purposes whenever the Board shall have determined that such acquisition, lease, and/or improvement is for the common good of a region of the Commonwealth or the Commonwealth as a whole. Funds provided in this section may also be used as matching funds for federal grants to support intercity passenger rail projects.

D. Capital projects including tracks and facilities constructed and property, equipment, and rolling stock purchased with funds under this section shall be the property of the Commonwealth for the useful life of the project, as determined by the Director of the Department of Rail and Public Transportation, and shall be made available for use by all intercity passenger rail operations and common carriers using the railway system to which they connect under the trackage rights or operating agreements between the parties. Projects undertaken pursuant to this section shall be limited to those of a region of the Commonwealth or the Commonwealth as a whole. Such projects undertaken pursuant to this section shall not require a matching contribution; however, projects proposed with matching funds may receive more favorable consideration. Matching funds may be provided from any source except Commonwealth Transportation Fund revenues.

**§ 58.1-300. Incomes not subject to local taxation.**

~~Except as provided in § 58.1-540, no~~ No county, city, town or other political subdivision of this Commonwealth shall impose any tax or levy upon incomes, incomes being hereby segregated for state taxation only.

**§ 58.1-520. (Contingent expiration) Definitions.**

As used in this article:

"Claimant agency" means any administrative unit of state, county, city or town government, including department, institution, commission, authority, or the office of Executive Secretary of the Supreme Court, any circuit or district court and the Internal Revenue Service. All state agencies and institutions shall participate in the setoff program.

"Debtor" means any individual having a delinquent debt or account with any claimant agency which obligation has not been satisfied by court order, set aside by court order, or discharged in bankruptcy.

"Delinquent debt" means any liquidated sum due and owing any claimant agency, or any restitution ordered paid to a clerk of the court pursuant to Title 19.2, including any amount of court costs or fines which have accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum which is legally collectible and for which a collection effort has been or is being made.

"Mailing date of notice" means the date of notice appearing thereon.

306 "Refund" means any individual's Virginia state or local income tax refund payable pursuant to  
307 §§ 58.1-309 and 58.1-546. This term also includes any refund belonging to a debtor resulting from the  
308 filing of a joint income tax return or a refund belonging to a debtor resulting from the filing of a return  
309 where husband and wife have elected to file a combined return and separately state their Virginia  
310 taxable incomes under the provisions of § 58.1-324 B 2.

311 **§ 58.1-520. (Contingent effective date) Definitions.**

312 As used in this article:

313 "Claimant agency" means any administrative unit of state, county, city or town government,  
314 including department, institution, commission, authority, or the office of Executive Secretary of the  
315 Supreme Court, any circuit or district court and the Internal Revenue Service. All state agencies and  
316 institutions shall participate in the setoff program.

317 "Debtor" means any individual having a delinquent debt or account with any claimant agency which  
318 obligation has not been satisfied by court order, set aside by court order, or discharged in bankruptcy.

319 "Delinquent debt" means any liquidated sum due and owing any claimant agency, or any restitution  
320 ordered paid to a clerk of the court pursuant to Title 19.2, including any amount of court costs or fines  
321 which have accrued through contract, subrogation, tort, operation of law, or any other legal theory  
322 regardless of whether there is an outstanding judgment for that sum which is legally collectible and for  
323 which a collection effort has been or is being made.

324 "Mailing date of notice" means the date of notice appearing thereon.

325 "Refund" means any individual's (i) Virginia state or local income tax refund payable pursuant to  
326 §§ 58.1-309 and 58.1-546 or (ii) federal income tax refund payable pursuant to § 6402 of the Internal  
327 Revenue Code. This term also includes any refund belonging to a debtor resulting from the filing of a  
328 joint income tax return or a refund belonging to a debtor resulting from the filing of a return where  
329 husband and wife have elected to file a combined return and separately state their Virginia taxable  
330 incomes under the provisions of § 58.1-324 B 2.

331 **§ 58.1-601. Administration of chapter.**

332 A. The Tax Commissioner shall administer and enforce the assessment and collection of the taxes  
333 and penalties imposed by this chapter, *including the collection and administration of all state and local*  
334 *sales and use taxes imposed on remote sellers.*

335 B. *To comply with any provisions in any legislation enacted by the Congress of the United States*  
336 *that require states to simplify the administration of their sales and use taxes as a condition to require*  
337 *remote sellers to collect and remit their state and local sales taxes, the Tax Commissioner shall take all*  
338 *administrative actions he deems necessary to facilitate the Commonwealth's compliance with the*  
339 *minimum simplification requirements, including but not limited to: (i) providing adequate software and*  
340 *services to remote sellers and single and consolidated providers that identify the applicable destination*  
341 *rate, including the state and local sales tax rate (if any), to be applied on sales on which the*  
342 *Commonwealth imposes sales and use tax; (ii) providing certification procedures for both single*  
343 *providers and consolidated providers to make software and services available to remote sellers; (iii)*  
344 *ensuring that no more than one audit be performed or required for all state and local taxing*  
345 *jurisdictions within the Commonwealth; and (iv) requiring that no more than one sales and use tax*  
346 *return per month be filed with the Department of Taxation by any remote seller or any single or*  
347 *consolidated provider on behalf of such remote seller.*

348 C. For purposes of evaluating the fiscal, economic and policy impact of sales and use tax  
349 exemptions, the Tax Commissioner may require from any person information relating to the evaluation  
350 of exempt purchases or sales, information relating to the qualification for exempt purchases, and  
351 information relating to direct or indirect government financial assistance ~~which~~ *that* the person receives.  
352 Such information shall be filed on forms prescribed by the Tax Commissioner.

353 **§ 58.1-602. Definitions.**

354 A. As used in this chapter, unless the context clearly shows otherwise, ~~the term or phrase:~~

355 "Advertising" means the planning, creating, or placing of advertising in newspapers, magazines,  
356 billboards, broadcasting and other media, including, without limitation, the providing of concept, writing,  
357 graphic design, mechanical art, photography and production supervision. Any person providing  
358 advertising as defined herein shall be deemed to be the user or consumer of all tangible personal  
359 property purchased for use in such advertising.

360 "Amplification, transmission and distribution equipment" means, but is not limited to, production,  
361 distribution, and other equipment used to provide Internet-access services, such as computer and  
362 communications equipment and software used for storing, processing and retrieving end-user subscribers'  
363 requests.

364 "Business" includes any activity engaged in by any person, or caused to be engaged in by him, with  
365 the object of gain, benefit or advantage, either directly or indirectly.

366 "Cost price" means the actual cost of an item or article of tangible personal property computed in the  
367 same manner as the sales price as defined in this section without any deductions therefrom on account

of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever.

"Custom program" means a computer program which is specifically designed and developed only for one customer. The combining of two or more prewritten programs does not constitute a custom computer program. A prewritten program that is modified to any degree remains a prewritten program and does not become custom.

"Distribution" means the transfer or delivery of tangible personal property for use, consumption, or storage by the distributee, and the use, consumption, or storage of tangible personal property by a person who has processed, manufactured, refined, or converted such property, but does not include the transfer or delivery of tangible personal property for resale or any use, consumption, or storage otherwise exempt under this chapter.

"Gross proceeds" means the charges made or voluntary contributions received for the lease or rental of tangible personal property or for furnishing services, computed with the same deductions, where applicable, as for sales price as defined in this section over the term of the lease, rental, service, or use, but not less frequently than monthly.

"Gross sales" means the sum total of all retail sales of tangible personal property or services as defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" shall not include the federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the Internal Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the article, or the Virginia retail sales or use tax, or any sales or use tax imposed by any county or city under § 58.1-605 or 58.1-606.

"Import" and "imported" are words applicable to tangible personal property imported into the Commonwealth from other states as well as from foreign countries, and "export" and "exported" are words applicable to tangible personal property exported from the Commonwealth to other states as well as to foreign countries.

"In this Commonwealth" or "in the Commonwealth" means within the limits of the Commonwealth of Virginia and includes all territory within these limits owned by or ceded to the United States of America.

"Integrated process," when used in relation to semiconductor manufacturing, means a process that begins with the research or development of semiconductor products, equipment, or processes, includes the handling and storage of raw materials at a plant site, and continues to the point that the product is packaged for final sale and either shipped or conveyed to a warehouse. Without limiting the foregoing, any semiconductor equipment, fuel, power, energy, supplies, or other tangible personal property shall be deemed used as part of the integrated process if its use contributes, before, during, or after production, to higher product quality, production yields, or process efficiencies. Except as otherwise provided by law, such term shall not mean general maintenance or administration.

"Internet" means collectively, the myriad of computer and telecommunications facilities, which comprise the interconnected world-wide network of computer networks.

"Internet service" means a service that enables users to access proprietary and other content, information electronic mail, and the Internet as part of a package of services sold to end-user subscribers.

"Lease or rental" means the leasing or renting of tangible personal property and the possession or use thereof by the lessee or renter for a consideration, without transfer of the title to such property.

"Manufacturing, processing, refining, or conversion" includes the production line of the plant starting with the handling and storage of raw materials at the plant site and continuing through the last step of production where the product is finished or completed for sale and conveyed to a warehouse at the production site, and also includes equipment and supplies used for production line testing and quality control. The term "manufacturing" shall also include the necessary ancillary activities of newspaper and magazine printing when such activities are performed by the publisher of any newspaper or magazine for sale daily or regularly at average intervals not exceeding three months.

The determination whether any manufacturing, mining, processing, refining or conversion activity is industrial in nature shall be made without regard to plant size, existence or size of finished product inventory, degree of mechanization, amount of capital investment, number of employees or other factors relating principally to the size of the business. Further, "industrial in nature" shall include, but not be limited to, those businesses classified in codes 10 through 14 and 20 through 39 published in the Standard Industrial Classification Manual for 1972 and any supplements issued thereafter.

"Modular building" means, but shall not be limited to, single and multifamily houses, apartment units, commercial buildings, and permanent additions thereof, comprised of one or more sections that are intended to become real property, primarily constructed at a location other than the permanent site, built to comply with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.) as regulated by the Virginia Department of Housing and Community Development, and shipped with most permanent components in place to the site of final assembly. For purposes of this chapter, a modular building shall

not include a mobile office as defined in § 58.1-2401 or any manufactured building subject to and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.).

"Modular building manufacturer" means a person or corporation who owns or operates a manufacturing facility and is engaged in the fabrication, construction and assembling of building supplies and materials into modular buildings, as defined in this section, at a location other than at the site where the modular building will be assembled on the permanent foundation and may or may not be engaged in the process of affixing the modules to the foundation at the permanent site.

"Modular building retailer" means any person who purchases or acquires a modular building from a modular building manufacturer, or from another person, for subsequent sale to a customer residing within or outside of the Commonwealth, with or without installation of the modular building to the foundation at the permanent site.

"Motor vehicle" means a "motor vehicle" as defined in § 58.1-2401, taxable under the provisions of the Virginia Motor Vehicles Sales and Use Tax Act (§ 58.1-2400 et seq.) and upon the sale of which all applicable motor vehicle sales and use taxes have been paid.

"Occasional sale" means a sale of tangible personal property not held or used by a seller in the course of an activity for which he is required to hold a certificate of registration, including the sale or exchange of all or substantially all the assets of any business and the reorganization or liquidation of any business, provided such sale or exchange is not one of a series of sales and exchanges sufficient in number, scope and character to constitute an activity requiring the holding of a certificate of registration.

"Open video system" means an open video system authorized pursuant to 47 U.S.C. § 573 and, for purposes of this chapter only, shall also include Internet service regardless of whether the provider of such service is also a telephone common carrier.

"Person" includes any individual, firm, copartnership, cooperative, nonprofit membership corporation, joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver, auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit, body politic or political subdivision, whether public or private, or quasi-public, and the plural of such term shall mean the same as the singular.

"Prewritten program" means a computer program that is prepared, held or existing for general or repeated sale or lease, including a computer program developed for in-house use and subsequently sold or leased to unrelated third parties.

"Railroad rolling stock" means locomotives, of whatever motive power, autocars, railroad cars of every kind and description, and all other equipment determined by the Tax Commissioner to constitute railroad rolling stock.

"Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in the form of tangible personal property or services taxable under this chapter, and shall include any such transaction as the Tax Commissioner upon investigation finds to be in lieu of a sale. All sales for resale must be made in strict compliance with regulations applicable to this chapter. Any dealer making a sale for resale which is not in strict compliance with such regulations shall be personally liable for payment of the tax.

The terms "retail sale" and a "sale at retail" shall specifically include the following: (i) the sale or charges for any room or rooms, lodgings, or accommodations furnished to transients for less than 90 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration; (ii) sales of tangible personal property to persons for resale when because of the operation of the business, or its very nature, or the lack of a place of business in which to display a certificate of registration, or the lack of a place of business in which to keep records, or the lack of adequate records, or because such persons are minors or transients, or because such persons are engaged in essentially service businesses, or for any other reason there is likelihood that the Commonwealth will lose tax funds due to the difficulty of policing such business operations; and (iii) the separately stated charge made for automotive refinish repair materials that are permanently applied to or affixed to a motor vehicle during its repair. The Tax Commissioner is authorized to promulgate regulations requiring vendors of or sellers to such persons to collect the tax imposed by this chapter on the cost price of such tangible personal property to such persons and may refuse to issue certificates of registration to such persons.

The term "transient" shall not include a purchaser of camping memberships, time-shares, condominiums, or other similar contracts or interests that permit the use of, or constitute an interest in, real estate, however created or sold and whether registered with the Commonwealth or not. Further, a purchaser of a right or license which entitles the purchaser to use the amenities and facilities of a specific real estate project on an ongoing basis throughout its term shall not be deemed a transient; provided, however, that the term or time period involved is for seven years or more.

The terms "retail sale" and "sale at retail" shall not include a transfer of title to tangible personal

property after its use as tools, tooling, machinery or equipment, including dies, molds, and patterns, if (i) at the time of purchase, the purchaser is obligated, under the terms of a written contract, to make the transfer and (ii) the transfer is made for the same or a greater consideration to the person for whom the purchaser manufactures goods.

"Retailer" means every person engaged in the business of making sales at retail, or for distribution, use, consumption, or storage to be used or consumed in the Commonwealth.

"Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property and any rendition of a taxable service for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication, and the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.

"Sales price" means the total amount for which tangible personal property or services are sold, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, losses or any other expenses whatsoever. "Sales price" shall not include (i) any cash discount allowed and taken; (ii) finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other conditional contracts providing for deferred payments of the purchase price; (iii) separately stated local property taxes collected; (iv) that portion of the amount paid by the purchaser as a discretionary gratuity added to the price of a meal; or (v) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by a restaurant to the price of a meal, but only to the extent that such mandatory gratuity or service charge does not exceed ~~20%~~ *20 percent* of the price of the meal. Where used articles are taken in trade, or in a series of trades as a credit or part payment on the sale of new or used articles, the tax levied by this chapter shall be paid on the net difference between the sales price of the new or used articles and the credit for the used articles.

"Semiconductor cleanrooms" means the integrated systems, fixtures, piping, partitions, flooring, lighting, equipment, and all other property used to reduce contamination or to control airflow, temperature, humidity, vibration, or other environmental conditions required for the integrated process of semiconductor manufacturing.

"Semiconductor equipment" means (i) machinery or tools or repair parts or replacements thereof; (ii) the related accessories, components, pedestals, bases, or foundations used in connection with the operation of the equipment, without regard to the proximity to the equipment, the method of attachment, or whether the equipment or accessories are affixed to the realty; (iii) semiconductor wafers and other property or supplies used to install, test, calibrate or recalibrate, characterize, condition, measure, or maintain the equipment and settings thereof; and (iv) equipment and supplies used for quality control testing of product, materials, equipment, or processes; or the measurement of equipment performance or production parameters regardless of where or when the quality control, testing, or measuring activity takes place, how the activity affects the operation of equipment, or whether the equipment and supplies come into contact with the product.

"Storage" means any keeping or retention of tangible personal property for use, consumption or distribution in the Commonwealth, or for any purpose other than sale at retail in the regular course of business.

"Tangible personal property" means personal property which may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. The term "tangible personal property" shall not include stocks, bonds, notes, insurance or other obligations or securities. The term "tangible personal property" shall include (i) telephone calling cards upon their initial sale, which shall be exempt from all other state and local utility taxes, and (ii) manufactured signs.

"Use" means the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it does not include the sale at retail of that property in the regular course of business. The term does not include the exercise of any right or power, including use, distribution, or storage, over any tangible personal property sold to a nonresident donor for delivery outside of the Commonwealth to a nonresident recipient pursuant to an order placed by the donor from outside the Commonwealth via mail or telephone. The term does not include any sale determined to be a gift transaction, subject to tax under § 58.1-604.6.

"Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as herein defined.

"Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers to

those activities which are an integral part of the production of a product, including all steps of an integrated manufacturing or mining process, but not including ancillary activities such as general maintenance or administration. When used in relation to mining, it shall refer to the activities specified above, and in addition, any reclamation activity of the land previously mined by the mining company required by state or federal law.

"Video programmer" means a person or entity that provides video programming to end-user subscribers.

"Video programming" means video and/or information programming provided by or generally considered comparable to programming provided by a cable operator including, but not limited to, Internet service.

*B. Notwithstanding the definitions in subsection A, to the extent that conformity to any remote collection authority legislation enacted by the Congress of the United States shall so require, the words and terms used in this chapter related to the minimum simplification requirements shall have the same meaning as provided in such federal legislation.*

**§ 58.1-603. Imposition of sales tax.**

There is hereby levied and imposed, in addition to all other taxes and fees of every kind now imposed by law, a license or privilege tax upon every person who engages in the business of selling at retail or distributing tangible personal property in this Commonwealth, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this Commonwealth any item or article of tangible personal property as defined in this chapter, or who leases or rents such property within this Commonwealth, in the amount of ~~three and one-half percent~~ *through midnight on July 31, 2004, and four percent beginning on and after August 1, 2004 4.3 percent:*

1. Of the gross sales price of each item or article of tangible personal property when sold at retail or distributed in this Commonwealth.

2. Of the gross proceeds derived from the lease or rental of tangible personal property, where the lease or rental of such property is an established business, or part of an established business, or the same is incidental or germane to such business.

3. Of the cost price of each item or article of tangible personal property stored in this Commonwealth for use or consumption in this Commonwealth.

4. Of the gross proceeds derived from the sale or charges for rooms, lodgings or accommodations furnished to transients as set out in the definition of "retail sale" in § 58.1-602.

5. Of the gross sales of any services ~~which that~~ are expressly stated as taxable within this chapter.

**§ 58.1-603.1. Additional state sales tax in certain counties and cities.**

*A. In addition to the sales tax imposed pursuant to § 58.1-603, there is hereby levied and imposed in each county and city 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 1.5 million or more as shown by the most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit ridership of not less than 15 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), a retail sales tax at the rate of 0.70 percent. 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. Such tax shall not be levied upon food purchased for human consumption as defined in § 58.1-611.1. Such tax shall be added to the rate of the state sales tax imposed pursuant to § 58.1-603 in each such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax imposed under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax under § 58.1-603.*

*The revenue generated and collected pursuant to the tax authorized under this section, less the applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller 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 § 15.2-4838.01. In the case of Planning District 23, the revenue generated and collected therein shall be deposited into the fund established in § 33.1-23.5:3. For additional Planning Districts that may become subject to this section, funds shall be established by appropriate legislation.*

*B. The transitional provisions of § 58.1-639 shall apply, mutatis mutandis, to the taxes imposed pursuant to this section.*

**§ 58.1-604. Imposition of use tax.**

There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount

of three and one-half percent through midnight on July 31, 2004, and four percent beginning on and after August 1, 2004 4.3 percent:

1. Of the cost price of each item or article of tangible personal property used or consumed in this Commonwealth. Tangible personal property which that has been acquired for use outside this Commonwealth and subsequently becomes subject to the tax imposed hereunder shall be taxed on the basis of its cost price if such property is brought within this Commonwealth for use within six months of its acquisition; but if so brought within this Commonwealth six months or more after its acquisition, such property shall be taxed on the basis of the current market value (but not in excess of its cost price) of such property at the time of its first use within this Commonwealth. Such tax shall be based on such proportion of the cost price or current market value as the duration of time of use within this Commonwealth bears to the total useful life of such property (but it shall be presumed in all cases that such property will remain within this Commonwealth for the remainder of its useful life unless convincing evidence is provided to the contrary).

2. Of the cost price of each item or article of tangible personal property stored outside this Commonwealth for use or consumption in this Commonwealth.

3. A transaction taxed under § 58.1-603 shall not also be taxed under this section, nor shall the same transaction be taxed more than once under either section.

4. The use tax shall not apply with respect to the use of any article of tangible personal property brought into this Commonwealth by a nonresident individual, visiting in Virginia, for his personal use, while within this Commonwealth.

5. The use tax shall not apply to out-of-state mail order catalog purchases totaling \$100 or less during any calendar year.

**§ 58.1-604.01. Additional state use tax in certain counties and cities.**

A. In addition to the use tax imposed pursuant to § 58.1-604, there is hereby levied and imposed in each county and city 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 1.5 million or more, as shown by the most recent United States Census, has not less than 1.2 million motor vehicles registered therein, and has a total transit ridership of not less than 15 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), a retail use tax at the rate of 0.70 percent. 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. Such tax shall not be levied upon food purchased for human consumption as defined in § 58.1-611.1. Such tax shall be added to the rate of the state use tax imposed pursuant to § 58.1-604 in such county and city and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax described under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state use tax under § 58.1-604.

The revenue generated and collected pursuant to the tax authorized under this section, less the applicable portion of any refunds to taxpayers, shall be deposited by the Comptroller 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 § 15.2-4838.01. In the case of Planning District 23, the revenue generated and collected therein shall be deposited into the fund established in § 33.1-23.5:3. For any additional Planning Districts that may become subject to this section, funds shall be established by appropriate legislation.

B. The transitional provisions of § 58.1-639 shall apply, mutatis mutandis, to the taxes imposed pursuant to this section.

**§ 58.1-604.1. Use tax on motor vehicles, machinery, tools and equipment brought into Virginia for use in performing contracts.**

In addition to the use tax levied pursuant to § 58.1-604 and notwithstanding the provisions of § 58.1-611, a use tax is levied upon the storage or use of all motor vehicles, machines, machinery, tools or other equipment brought, imported or caused to be brought into this Commonwealth for use in constructing, building or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or water system, drainage or dredging system, railway system, reservoir or dam, hydraulic or power plant, transmission line, tower, dock, wharf, excavation, grading, or other improvement or structure, or any part thereof. The rate of tax is three and one-half percent through midnight on July 31, 2004, and four percent beginning on and after August 1, 2004, 4.3 percent on all tangible personal property except motor vehicles, which shall be taxed at the rate of three percent set forth in § 58.1-2402; aircraft, which shall be taxed at the rate of two percent; and watercraft, which shall be taxed at the rate of two percent with a maximum tax of \$1,000. However, the total rate of the state use tax in any county or city for



675 *which the tax under § 58.1-604.01 is imposed shall be 5.0 percent on all tangible personal property*  
676 *except motor vehicles, which shall be taxed at the rate set forth in § 58.1-2402; aircraft, which shall be*  
677 *taxed at the rate of two percent; and watercraft, which shall be taxed at the rate of two percent with a*  
678 *maximum tax of \$1,000.*

679 For purposes of this section ~~the words~~, "motor vehicle" means any vehicle which is self-propelled  
680 and designed primarily for use upon the highways, any vehicle which is propelled by electric power  
681 obtained from trolley wires but not operated upon rails, and any vehicle designed to run upon the  
682 highways which is pulled by a self-propelled vehicle, but shall not include any implement of husbandry,  
683 farm tractor, road construction or maintenance machinery or equipment, special mobile equipment or any  
684 vehicle designed primarily for use in work off the highway.

685 The tax shall be computed on the basis of such proportion of the original purchase price of such  
686 property as the duration of time of use in this Commonwealth bears to the total useful life thereof. For  
687 purposes of this section, ~~the word~~ "use" means use, storage, consumption and "stand-by" time  
688 occasioned by weather conditions, controversies or other causes. The tax shall be computed upon the  
689 basis of the relative time each item of equipment is in this Commonwealth rather than upon the basis of  
690 actual use. In the absence of satisfactory evidence as to the period of use intended in this  
691 Commonwealth, it will be presumed that such property will remain in this Commonwealth for the  
692 remainder of its useful life, which shall be determined in accordance with the experiences and practices  
693 of the building and construction trades.

694 A transaction taxed under § 58.1-604, 58.1-605, 58.1-1402, 58.1-1502, 58.1-1736 or 58.1-2402 shall  
695 not also be taxed under this section, nor shall the same transaction be taxed more than once under any  
696 section.

697 **§ 58.1-605. To what extent and under what conditions cities and counties may levy local sales**  
698 **taxes; collection thereof by Commonwealth and return of revenue to each city or county entitled**  
699 **thereto.**

700 A. No county, city or town shall impose any local general sales or use tax or any local general retail  
701 sales or use tax except as authorized by this section.

702 B. The council of any city and the governing body of any county may levy a general retail sales tax  
703 at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall  
704 be added to the rate of the state sales tax imposed by §§ 58.1-603 and 58.1-604 and shall be subject to  
705 all the provisions of this chapter and the rules and regulations published with respect thereto. No  
706 discount under § 58.1-622 shall be allowed on a local sales tax.

707 C. The council of any city and the governing body of any county desiring to impose a local sales tax  
708 under this section may do so by the adoption of an ordinance stating its purpose and referring to this  
709 section, and providing that such ordinance shall be effective on the first day of a month at least 60 days  
710 after its adoption. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so  
711 that it will be received within five days after its adoption.

712 D. *Prior to any change in the rate of the local sales and use tax, the Tax Commissioner shall*  
713 *provide remote sellers and single and consolidated providers with at least 30 days' notice. Any change*  
714 *in the rate of local sales and use tax shall only become effective on the first day of a calendar quarter.*  
715 *Failure to provide notice pursuant to this section shall require the Commonwealth and the locality to*  
716 *hold the remote seller or single or consolidated provider harmless for collecting the tax at the*  
717 *immediately preceding effective rate for any period of time prior to 30 days after notification is*  
718 *provided.*

719 E. Any local sales tax levied under this section shall be administered and collected by the Tax  
720 Commissioner in the same manner and subject to the same penalties as provided for the state sales tax.

721 ~~E.~~ F. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid  
722 into the state treasury to the credit of a special fund which is hereby created on the Comptroller's books  
723 under the name "Collections of Local Sales Taxes." Such local sales tax moneys shall be credited to the  
724 account of each particular city or county levying a local sales tax under this section. The basis of such  
725 credit shall be the city or county in which the sales were made as shown by the records of the  
726 Department and certified by it monthly to the Comptroller, namely, the city or county of location of  
727 each place of business of every dealer paying the tax to the Commonwealth without regard to the city or  
728 county of possible use by the purchasers. If a dealer has any place of business located in more than one  
729 political subdivision by reason of the boundary line or lines passing through such place of business, the  
730 amount of sales tax paid by such a dealer with respect to such place of business shall be treated for the  
731 purposes of this section as follows: one-half shall be assignable to each political subdivision where two  
732 are involved, one-third where three are involved, and one-fourth where four are involved.

733 ~~F.~~ G. As soon as practicable after the local sales tax moneys have been paid into the state treasury in  
734 any month for the preceding month, the Comptroller shall draw his warrant on the Treasurer of Virginia  
735 in the proper amount in favor of each city or county entitled to the monthly return of its local sales tax  
736 moneys, and such payments shall be charged to the account of each such city or county under the

special fund created by this section. If errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall be corrected and adjustments made in the payments for the next two months as follows: one-half of the total adjustment shall be included in the payments for the next two months. In addition, the payment shall include a refund of amounts erroneously not paid to the city or county and not previously refunded during the three years preceding the discovery of the error. A correction and adjustment in payments described in this subsection due to the misallocation of funds by the dealer shall be made within three years of the date of the payment error.

G. H. Such payments to counties are subject to the qualification that in any county wherein is situated any incorporated town constituting a special school district and operated as a separate school district under a town school board of three members appointed by the town council, the county treasurer shall pay into the town treasury for general governmental purposes the proper proportionate amount received by him in the ratio that the school age population of such town bears to the school age population of the entire county. If the school age population of any town constituting a separate school district is increased by the annexation of territory since the last estimate of school age population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school age population of such town as shown by the last such estimate and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

H. I. One-half of such payments to counties are subject to the further qualification, other than as set out in subsection G ~~above~~ H, that in any county wherein is situated any incorporated town not constituting a separate special school district which has complied with its charter provisions providing for the election of its council and mayor for a period of at least four years immediately prior to the adoption of the sales tax ordinance, the county treasurer shall pay into the town treasury of each such town for general governmental purposes the proper proportionate amount received by him in the ratio that the school age population of each such town bears to the school age population of the entire county, based on the latest estimate provided by the Weldon Cooper Center for Public Service. The preceding requirement pertaining to the time interval between compliance with election provisions and adoption of the sales tax ordinance shall not apply to a tier-city. If the school age population of any such town not constituting a separate special school district is increased by the annexation of territory or otherwise since the last estimate of school age population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school age population of such town as shown by the last such estimate and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

I. J. Notwithstanding the provisions of subsection H I, the board of supervisors of a county may, in its discretion, appropriate funds to any incorporated town not constituting a separate school district within such county which has not complied with the provisions of its charter relating to the elections of its council and mayor, an amount not to exceed the amount it would have received from the tax imposed by this chapter if such election had been held.

J. K. It is further provided that if any incorporated town which would otherwise be eligible to receive funds from the county treasurer under subsection G ~~or~~ H ~~of this section~~ or I be located in a county which does not levy a general retail sales tax under the provisions of this law, such town may levy a general retail sales tax at the rate of one percent to provide revenue for the general fund of the town, subject to all the provisions of this section generally applicable to cities and counties. Any tax levied under the authority of this subsection shall in no case continue to be levied on or after the effective date of a county ordinance imposing a general retail sales tax in the county within which such town is located.

**§ 58.1-606. To what extent and under what conditions cities and counties may levy local use tax; collection thereof by Commonwealth and return of revenues to the cities and counties.**

A. The council of any city and the governing body of any county which has levied or may hereafter levy a city or county sales tax under § 58.1-605 may levy a city or county use tax at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall be added to the rate of the state use tax imposed by this chapter and shall be subject to all the provisions of this chapter, and all amendments thereof, and the rules and regulations published with respect thereto, except that no discount under § 58.1-622 shall be allowed on a local use tax.

B. The council of any city and the governing body of any county desiring to impose a local use tax under this section may do so in the manner following:

1. If the city or county has previously imposed the local sales tax authorized by § 58.1-605, the local use tax may be imposed by the council or governing body by the adoption of a resolution by a majority of all the members thereof, by a recorded yea and nay vote, stating its purpose and referring to this section, and providing that the local use tax shall become effective on the first day of a month at least

60 days after the adoption of the resolution. A certified copy of such resolution shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption. The resolution authorized by this paragraph may be adopted in the manner stated notwithstanding any other provision of law, including any charter provision.

2. If the city or county has not imposed the local sales tax authorized by § 58.1-605, the local use tax may be imposed by ordinance together with the local sales tax in the manner set out in subsections B and C of § 58.1-605.

C. Any local use tax levied under this section shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state use tax.

*D. Prior to any change in the rate of the local sales and use tax, the Tax Commissioner shall provide remote sellers and single and consolidated providers with at least 30 days' notice. Any change in the rate of local sales and use tax shall only become effective on the first day of a calendar quarter. Failure to provide notice pursuant to this section shall require the Commonwealth and the locality to hold the remote seller or single or consolidated provider harmless for collecting the tax at the immediately preceding effective rate for any period of time prior to 30 days after notification is provided.*

E. The local use tax authorized by this section shall not apply to transactions to which the sales tax applies, the situs of which for state and local sales tax purposes is the city or county of location of each place of business of every dealer paying the tax to the Commonwealth without regard to the city or county of possible use by the purchasers. However, the local use tax authorized by this section shall apply to tangible personal property purchased without this Commonwealth for use or consumption within the city or county imposing the local use tax, or stored within the city or county for use or consumption, where the property would have been subject to the sales tax if it had been purchased within this Commonwealth. The local use tax shall also apply to leases or rentals of tangible personal property where the place of business of the lessor is without this Commonwealth and such leases or rentals are subject to the state tax. Moreover, the local use tax shall apply in all cases in which the state use tax applies.

F. Out-of-state dealers who hold certificates of registration to collect the use tax from their customers for remittance to this Commonwealth shall, to the extent reasonably practicable, in filing their monthly use tax returns with the Tax Commissioner, break down their shipments into this Commonwealth by cities and counties so as to show the city or county of destination. If, however, the out-of-state dealer is unable accurately to assign any shipment to a particular city or county, the local use tax on the tangible personal property involved shall be remitted to the Commonwealth by such dealer without attempting to assign the shipment to any city or county.

G. Local use tax revenue shall be distributed among the cities and counties for which it is collected, respectively, as shown by the records of the Department, and the procedure shall be the same as that prescribed for distribution of local sales tax revenue under § 58.1-605. The local use tax revenue that is not accurately assignable to a particular city or county shall be distributed monthly by the appropriate state authorities among the cities and counties in this Commonwealth imposing the local use tax upon the basis of taxable retail sales in the respective cities and counties in which the local sales and use tax was in effect in the taxable month involved, as shown by the records of the Department, and computed with respect to taxable retail sales as reflected by the amounts of the local sales tax revenue distributed among such cities and counties, respectively, in the month of distribution. Notwithstanding any other provision of this section, the Tax Commissioner shall develop a uniform method to distribute local use tax. Any significant changes to the method of local use tax distribution shall be phased in over a five-year period. Distribution information shall be shared with the affected localities prior to implementation of the changes.

H. All local use tax revenue shall be used, applied or disbursed by the cities and counties as provided in § 58.1-605 with respect to local sales tax revenue.

**§ 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, sports facility that is designed for use primarily as a baseball stadium for a minor league professional baseball affiliated team or structures attached thereto, 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 state-supported university 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; or (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. However, such public facility must be located in the 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, or City of Winchester. Any property, real, personal, or mixed, which is necessary or desirable in connection with any such auditorium, coliseum, convention center, baseball stadium or conference center, including, without limitation, facilities for food preparation and serving, parking facilities, and administration offices, 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 of this section. 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.) of this title, as limited herein. "Sales tax revenues" does not include the revenue generated by (i) the ~~one-half~~ 0.5 percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly which shall be paid to the Transportation Trust Fund as defined in § 33.1-23.03:1, ~~nor shall it include~~ (ii) the ~~one~~ 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. For a public facility that is a sports facility, "sales tax revenues" shall include such revenues generated by transactions taking place upon the premises of a baseball stadium or structures attached thereto.

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

921 by a locality that it intends to contribute infrastructure or real property as part of a public-private  
922 partnership with the developer of a development of regional impact, the Department of Taxation shall  
923 review the findings of the locality with respect to clauses (i) through (vi) and shall file a written report  
924 with the Chairmen of the House Committee on Finance, the House Committee on Appropriations, and  
925 the Senate Committee on Finance.

926 C. Any municipality which has issued bonds (i) after December 31, 1991, but before January 1,  
927 1996, (ii) on or after January 1, 1998, but before July 1, 1999, (iii) on or after January 1, 1999, but  
928 before July 1, 2001, (iv) on or after July 1, 2000, but before July 1, 2003, (v) on or after July 1, 2001,  
929 but before July 1, 2005, (vi) on or after July 1, 2004, but before July 1, 2007, (vii) on or after July 1,  
930 2009, but before July 1, 2012, or (viii) on or after January 1, 2011, but prior to July 1, 2015, to pay the  
931 cost, or portion thereof, of any public facility shall be entitled to all sales tax revenues generated by  
932 transactions taking place in such public facility. Such entitlement shall continue for the lifetime of such  
933 bonds, which entitlement shall not exceed 35 years, and all such sales tax revenues shall be applied to  
934 repayment of the bonds. The State Comptroller shall remit such sales tax revenues to the municipality  
935 on a quarterly basis, subject to such reasonable processing delays as may be required by the Department  
936 of Taxation to calculate the actual net sales tax revenues derived from the public facility. The State  
937 Comptroller shall make such remittances to eligible municipalities, as provided herein, notwithstanding  
938 any provisions to the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.). No  
939 such remittances shall be made until construction is completed and, in the case of a renovation or  
940 expansion, until the governing body of the municipality has certified that the renovation or expansion is  
941 completed.

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

947 **§ 58.1-612. (Contingent expiration date) Tax collectible from dealers; "dealer" defined;**  
948 **jurisdiction.**

949 A. The tax levied by §§ 58.1-603 and 58.1-604 shall be collectible from all persons who are dealers,  
950 as hereinafter defined, and who have sufficient contact with the Commonwealth to qualify under  
951 subsections B and C hereof.

952 B. The term "dealer," as used in this chapter, shall include every person who:

953 1. Manufactures or produces tangible personal property for sale at retail, for use, consumption, or  
954 distribution, or for storage to be used or consumed in this Commonwealth;

955 2. Imports or causes to be imported into this Commonwealth tangible personal property from any  
956 state or foreign country, for sale at retail, for use, consumption, or distribution, or for storage to be used  
957 or consumed in this Commonwealth;

958 3. Sells at retail, or who offers for sale at retail, or who has in his possession for sale at retail, or for  
959 use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth, tangible  
960 personal property;

961 4. Has sold at retail, used, consumed, distributed, or stored for use or consumption in this  
962 Commonwealth, tangible personal property and who cannot prove that the tax levied by this chapter has  
963 been paid on the sale at retail, the use, consumption, distribution, or storage of such tangible personal  
964 property;

965 5. Leases or rents tangible personal property for a consideration, permitting the use or possession of  
966 such property without transferring title thereto;

967 6. Is the lessee or rentee of tangible personal property and who pays to the owner of such property a  
968 consideration for the use or possession of such property without acquiring title thereto;

969 7. As a representative, agent, or solicitor, of an out-of-state principal, solicits, receives and accepts  
970 orders from persons in this Commonwealth for future delivery and whose principal refuses to register as  
971 a dealer under § 58.1-613; or

972 8. Becomes liable to and owes this Commonwealth any amount of tax imposed by this chapter,  
973 whether he holds, or is required to hold, a certificate of registration under § 58.1-613.

974 C. A dealer shall be deemed to have sufficient activity within the Commonwealth to require  
975 registration under § 58.1-613 if he:

976 1. Maintains or has within this Commonwealth, directly or through an agent or subsidiary, an office,  
977 warehouse, or place of business of any nature;

978 2. Solicits business in this Commonwealth by employees, independent contractors, agents or other  
979 representatives;

980 3. Advertises in newspapers or other periodicals printed and published within this Commonwealth, on  
981 billboards or posters located in this Commonwealth, or through materials distributed in this  
982 Commonwealth by means other than the United States mail;

4. Makes regular deliveries of tangible personal property within this Commonwealth by means other than common carrier. A person shall be deemed to be making regular deliveries hereunder if vehicles other than those operated by a common carrier enter this Commonwealth more than ~~twelve~~ 12 times during a calendar year to deliver goods sold by him;

5. Solicits business in this Commonwealth on a continuous, regular, seasonal, or systematic basis by means of advertising that is broadcast or relayed from a transmitter within this Commonwealth or distributed from a location within this Commonwealth;

6. Solicits business in this Commonwealth by mail, if the solicitations are continuous, regular, seasonal, or systematic and if the dealer benefits from any banking, financing, debt collection, or marketing activities occurring in this Commonwealth or benefits from the location in this Commonwealth of authorized installation, servicing, or repair facilities;

7. Is owned or controlled by the same interests which own or control a business located within this Commonwealth;

8. Has a franchisee or licensee operating under the same trade name in this Commonwealth if the franchisee or licensee is required to obtain a certificate of registration under § 58.1-613; or

9. Owns tangible personal property that is rented or leased to a consumer in this Commonwealth, or offers tangible personal property, on approval, to consumers in this Commonwealth.

D. Notwithstanding any other provision of this section, the following shall not be considered to determine whether a person who has contracted with a commercial printer for printing in the Commonwealth is a "dealer" and whether such person has sufficient contact with the Commonwealth to be required to register under § 58.1-613:

1. The ownership or leasing by that person of tangible or intangible property located at the Virginia premises of the commercial printer which is used solely in connection with the printing contract with the person;

2. The sale by that person of property of any kind printed at and shipped or distributed from the Virginia premises of the commercial printer;

3. Activities in connection with the printing contract with the person performed by or on behalf of that person at the Virginia premises of the commercial printer; and

4. Activities in connection with the printing contract with the person performed by the commercial printer within Virginia for or on behalf of that person.

E. In addition to the jurisdictional standards contained in subsection C of this section, nothing contained herein (other than subsection D) shall limit any authority which this Commonwealth may enjoy under the provisions of federal law or an opinion of the United States Supreme Court to require the collection of sales and use taxes by any dealer who regularly or systematically solicits sales within this Commonwealth. Furthermore, nothing contained in subsection C shall require any broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher which broadcasts, publishes, or displays or distributes paid commercial advertising in this Commonwealth which is intended to be disseminated primarily to consumers located in this Commonwealth to report or impose any liability to pay any tax imposed under this chapter solely because such broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher accepted such advertising contracts from out-of-state advertisers or sellers.

*F. Pursuant to any federal legislation that grants states the authority to require remote sellers to collect sales and use tax, the Commonwealth is authorized, as permitted by such federal legislation, to require collection of sales and use tax by any remote seller, or a single or consolidated provider acting on behalf of a remote seller. If the federal legislation has an exemption for sellers whose sales are less than a minimum amount, then in determining such amount, the sales made by all persons related within the meanings of subsections (b) and (c) of § 267 or § 707(b)(1) of the Internal Revenue Code of 1986 shall be aggregated.*

**§ 58.1-612. (Contingent effective date) Tax collectible from dealers; "dealer" defined; jurisdiction.**

A. The tax levied by §§ 58.1-603 and 58.1-604 shall be collectible from all persons who are dealers, as hereinafter defined, and who have sufficient contact with the Commonwealth to qualify under subsections (i) B and C or (ii) B and D hereof.

B. The term "dealer," as used in this chapter, shall include every person who:

1. Manufactures or produces tangible personal property for sale at retail, for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth;

2. Imports or causes to be imported into this Commonwealth tangible personal property from any state or foreign country, for sale at retail, for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth;

3. Sells at retail, or who offers for sale at retail, or who has in his possession for sale at retail, or for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth, tangible

1044 personal property;

1045 4. Has sold at retail, used, consumed, distributed, or stored for use or consumption in this

1046 Commonwealth, tangible personal property and who cannot prove that the tax levied by this chapter has

1047 been paid on the sale at retail, the use, consumption, distribution, or storage of such tangible personal

1048 property;

1049 5. Leases or rents tangible personal property for a consideration, permitting the use or possession of

1050 such property without transferring title thereto;

1051 6. Is the lessee or rentee of tangible personal property and who pays to the owner of such property a

1052 consideration for the use or possession of such property without acquiring title thereto;

1053 7. As a representative, agent, or solicitor, of an out-of-state principal, solicits, receives and accepts

1054 orders from persons in this Commonwealth for future delivery and whose principal refuses to register as

1055 a dealer under § 58.1-613; or

1056 8. Becomes liable to and owes this Commonwealth any amount of tax imposed by this chapter,

1057 whether he holds, or is required to hold, a certificate of registration under § 58.1-613.

1058 C. A dealer shall be deemed to have sufficient activity within the Commonwealth to require

1059 registration under § 58.1-613 if he:

1060 1. Maintains or has within this Commonwealth, directly or through an agent or subsidiary, an office,

1061 warehouse, or place of business of any nature;

1062 2. Solicits business in this Commonwealth by employees, independent contractors, agents or other

1063 representatives;

1064 3. Advertises in newspapers or other periodicals printed and published within this Commonwealth, on

1065 billboards or posters located in this Commonwealth, or through materials distributed in this

1066 Commonwealth by means other than the United States mail;

1067 4. Makes regular deliveries of tangible personal property within this Commonwealth by means other

1068 than common carrier. A person shall be deemed to be making regular deliveries hereunder if vehicles

1069 other than those operated by a common carrier enter this Commonwealth more than 12 times during a

1070 calendar year to deliver goods sold by him;

1071 5. Solicits business in this Commonwealth on a continuous, regular, seasonal, or systematic basis by

1072 means of advertising that is broadcast or relayed from a transmitter within this Commonwealth or

1073 distributed from a location within this Commonwealth;

1074 6. Solicits business in this Commonwealth by mail, if the solicitations are continuous, regular,

1075 seasonal, or systematic and if the dealer benefits from any banking, financing, debt collection, or

1076 marketing activities occurring in this Commonwealth or benefits from the location in this

1077 Commonwealth of authorized installation, servicing, or repair facilities;

1078 7. Is owned or controlled by the same interests which own or control a business located within this

1079 Commonwealth;

1080 8. Has a franchisee or licensee operating under the same trade name in this Commonwealth if the

1081 franchisee or licensee is required to obtain a certificate of registration under § 58.1-613; or

1082 9. Owns tangible personal property that is rented or leased to a consumer in this Commonwealth, or

1083 offers tangible personal property, on approval, to consumers in this Commonwealth.

1084 D. A dealer is presumed to have sufficient activity within the Commonwealth to require registration

1085 under § 58.1-613 (unless the presumption is rebutted as provided herein) if any commonly controlled

1086 person maintains a distribution center, warehouse, fulfillment center, office, or similar location within the

1087 Commonwealth that facilitates the delivery of tangible personal property sold by the dealer to its

1088 customers. The presumption in this subsection may be rebutted by demonstrating that the activities

1089 conducted by the commonly controlled person in the Commonwealth are not significantly associated

1090 with the dealer's ability to establish or maintain a market in the Commonwealth for the dealer's sales.

1091 For purposes of this subsection, a "commonly controlled person" means any person that is a member of

1092 the same "controlled group of corporations," as defined in § 1563(a) of the Internal Revenue Code of

1093 1954, as amended or renumbered, as the dealer or any other entity that, notwithstanding its form of

1094 organization, bears the same ownership relationship to the dealer as a corporation that is a member of

1095 the same "controlled group of corporations," as defined in § 1563(a) of the Internal Revenue Code of

1096 1954, as amended or renumbered.

1097 E. Notwithstanding any other provision of this section, the following shall not be considered to

1098 determine whether a person who has contracted with a commercial printer for printing in the

1099 Commonwealth is a "dealer" and whether such person has sufficient contact with the Commonwealth to

1100 be required to register under § 58.1-613:

1101 1. The ownership or leasing by that person of tangible or intangible property located at the Virginia

1102 premises of the commercial printer which is used solely in connection with the printing contract with the

1103 person;

1104 2. The sale by that person of property of any kind printed at and shipped or distributed from the

1105 Virginia premises of the commercial printer;

3. Activities in connection with the printing contract with the person performed by or on behalf of that person at the Virginia premises of the commercial printer; and

4. Activities in connection with the printing contract with the person performed by the commercial printer within Virginia for or on behalf of that person.

F. In addition to the jurisdictional standards contained in subsections C and D, nothing contained herein (other than subsection E) shall limit any authority which this Commonwealth may enjoy under the provisions of federal law or an opinion of the United States Supreme Court to require the collection of sales and use taxes by any dealer who regularly or systematically solicits sales within this Commonwealth. Furthermore, nothing contained in subsection C shall require any broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher which broadcasts, publishes, or displays or distributes paid commercial advertising in this Commonwealth which is intended to be disseminated primarily to consumers located in this Commonwealth to report or impose any liability to pay any tax imposed under this chapter solely because such broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher accepted such advertising contracts from out-of-state advertisers or sellers.

*G. Pursuant to any federal legislation that grants states the authority to require remote sellers to collect sales and use tax, the Commonwealth is authorized, as permitted by such federal legislation, to require collection of sales and use tax by any remote seller, or a single or consolidated provider acting on behalf of a remote seller. If the federal legislation has an exemption for sellers whose sales are less than a minimum amount, then in determining such amount, the sales made by all persons related within the meanings of subsections (b) and (c) of § 267 or § 707(b)(1) of the Internal Revenue Code of 1986 shall be aggregated.*

**§ 58.1-614. Vending machine sales.**

A. Notwithstanding the provisions of §§ 58.1-603 and 58.1-604, whenever a dealer makes sales of tangible personal property through vending machines, or in any other manner making collection of the tax impractical, as determined by the Tax Commissioner, such dealer shall be required to report his wholesale purchases for sale at retail from vending machines and shall be required to remit an amount based on ~~four and one-half percent through midnight on July 31, 2004, and five percent beginning on and after August 1, 2004,~~ 5.3 percent of such wholesale purchases. *However, any dealer located in any county or city for which the taxes under §§ 58.1-603.1 and 58.1-604.01 are imposed shall be required to remit an amount based on 6.0 percent of such wholesale purchases.*

B. Notwithstanding the provisions of §§ 58.1-605 and 58.1-606, dealers making sales of tangible personal property through vending machines shall report and remit the one percent local sales and use tax computed as provided in subsection A ~~of this section~~.

C. The provisions of subsections A and B ~~of this section~~ shall not be applicable to vending machine operators all of whose machines are under contract to nonprofit organizations. Such operators shall report only the gross receipts from machines selling items for more than 10 cents and shall be required to remit an amount based on a percentage of their remaining gross sales established by the Tax Commissioner to take into account the inclusion of sales tax.

D. Notwithstanding any other provisions in this section, when the Tax Commissioner determines that it is impractical to collect the tax in the manner provided by those sections, such dealer shall be required to remit an amount based on a percentage of gross receipts which takes into account the inclusion of the sales tax.

E. The provisions of this section shall not be applicable to any dealer who fails to maintain records satisfactory to the Tax Commissioner. A dealer making sales of tangible personal property through vending machines shall obtain a certificate of registration under § 58.1-613 in relevant form for each county or city in which he has machines.

**§ 58.1-615. Returns by dealers.**

A. Every dealer required to collect or pay the sales or use tax shall, on or before the twentieth day of the month following the month in which the tax shall become effective, transmit to the Tax Commissioner a return showing the gross sales, gross proceeds, or cost price, as the case may be, arising from all transactions taxable under this chapter during the preceding calendar month, and thereafter a like return shall be prepared and transmitted to the Tax Commissioner by every dealer on or before the twentieth day of each month, for the preceding calendar month. In the case of dealers regularly keeping books and accounts on the basis of an annual period which varies 52 to 53 weeks, the Tax Commissioner may make rules and regulations for reporting consistent with such accounting period. *The Tax Commissioner shall not require that more than one return per month be used or filed by any remote seller, single provider, or consolidated provider subject to the sales or use tax.*

Notwithstanding any other provision of this chapter, a dealer may be required by the Tax Commissioner to file sales or use tax returns on an accounting period less frequent than monthly when, in the opinion of the Tax Commissioner, the administration of the taxes imposed by this chapter would be enhanced. If a dealer is required to file other than monthly, each such return shall be due on or



1167 before the twentieth day of the month following the close of the period. Each such return shall contain  
1168 all information required for monthly returns.

1169 A sales or use tax return shall be filed by each registered dealer even though the dealer is not liable  
1170 to remit to the Tax Commissioner any tax for the period covered by the return.

1171 B. [Expired.]

1172 C. Any return required to be filed with the Tax Commissioner under this section shall be deemed to  
1173 have been filed with the Tax Commissioner on the date that such return is delivered by the dealer to the  
1174 commissioner of the revenue or the treasurer for the locality in which the dealer is located and receipt is  
1175 acknowledged by the commissioner of the revenue or treasurer. The commissioner of the revenue or the  
1176 treasurer shall stamp such date on the return, and shall mail the return to the Tax Commissioner no later  
1177 than the following business day. The commissioner of the revenue or the treasurer may collect from the  
1178 dealer the cost of postage for such mailing.

1179 D. Every dealer who elects to file a consolidated sales tax return for any taxable period and who is  
1180 required to remit payment by electronic funds transfer pursuant to subsection B of § 58.1-202.1  
1181 beginning on and after July 1, 2010, shall file his monthly return using an electronic medium prescribed  
1182 by the Tax Commissioner. A waiver of this requirement may be granted if the Tax Commissioner  
1183 determines that it creates an unreasonable burden on the dealer.

1184 **§ 58.1-625. (Effective until July 1, 2017) Collection of tax.**

1185 A. The tax levied by this chapter shall be paid by the dealer, but the dealer shall separately state the  
1186 amount of the tax and add such tax to the sales price or charge. Thereafter, such tax shall be a debt  
1187 from the purchaser, consumer, or lessee to the dealer until paid and shall be recoverable at law in the  
1188 same manner as other debts. No action at law or suit in equity under this chapter may be maintained in  
1189 this Commonwealth by any dealer who is not registered under § 58.1-613 or is delinquent in the  
1190 payment of the taxes imposed under this chapter.

1191 B. Notwithstanding any exemption from taxes which any dealer now or hereafter may enjoy under  
1192 the Constitution or laws of this or any other state, or of the United States, such dealer shall collect such  
1193 tax from the purchaser, consumer, or lessee and shall pay the same over to the Tax Commissioner as  
1194 herein provided.

1195 C. Any dealer collecting the sales or use tax on transactions exempt or not taxable under this chapter  
1196 shall transmit to the Tax Commissioner such erroneously or illegally collected tax unless or until he can  
1197 affirmatively show that the tax has since been refunded to the purchaser or credited to his account.

1198 D. Any dealer who neglects, fails, or refuses to collect such tax upon every taxable sale, distribution,  
1199 lease, or storage of tangible personal property made by him, his agents, or employees shall be liable for  
1200 and pay the tax himself, and such dealer shall not thereafter be entitled to sue for or recover in this  
1201 Commonwealth any part of the purchase price or rental from the purchaser until such tax is paid.  
1202 Moreover, any dealer who neglects, fails, or refuses to pay or collect the tax herein provided, either by  
1203 himself or through his agents or employees, shall be guilty of a Class 1 misdemeanor.

1204 E. *Notwithstanding subsection D, any remote seller, single provider, or consolidated provider who*  
1205 *has collected an incorrect amount of sales or use tax shall be relieved from liability for such additional*  
1206 *amount, including any penalty or interest, if collection of the improper amount is a result of the remote*  
1207 *seller, single provider, or consolidated provider's reasonable reliance upon information provided by the*  
1208 *Commonwealth, including, but not limited to, any information obtained from software provided by the*  
1209 *Department of Taxation pursuant to subsection B of § 58.1-601.*

1210 F. All sums collected by a dealer as required by this chapter shall be deemed to be held in trust for  
1211 the Commonwealth.

1212 Notwithstanding the foregoing provisions of this section, any dealer is authorized during the period  
1213 of time set forth in §§ 58.1-611.2 and 58.1-611.3 or subdivision 16 of § 58.1-609.1 not to collect the  
1214 tax levied by this chapter or levied under the authority granted in §§ 58.1-605 and 58.1-606 from the  
1215 purchaser, and to absorb such tax himself. A dealer electing to absorb such taxes shall be liable for  
1216 payment of such taxes to the Tax Commissioner in the same manner as he is for tax collected from a  
1217 purchaser pursuant to this section.

1218 **§ 58.1-625. (Effective July 1, 2017) Collection of tax.**

1219 A. The tax levied by this chapter shall be paid by the dealer, but the dealer shall separately state the  
1220 amount of the tax and add such tax to the sales price or charge. Thereafter, such tax shall be a debt  
1221 from the purchaser, consumer, or lessee to the dealer until paid and shall be recoverable at law in the  
1222 same manner as other debts. No action at law or suit in equity under this chapter may be maintained in  
1223 this Commonwealth by any dealer who is not registered under § 58.1-613 or is delinquent in the  
1224 payment of the taxes imposed under this chapter.

1225 B. Notwithstanding any exemption from taxes which any dealer now or hereafter may enjoy under  
1226 the Constitution or laws of this or any other state, or of the United States, such dealer shall collect such  
1227 tax from the purchaser, consumer, or lessee and shall pay the same over to the Tax Commissioner as  
1228 herein provided.

C. Any dealer collecting the sales or use tax on transactions exempt or not taxable under this chapter shall transmit to the Tax Commissioner such erroneously or illegally collected tax unless or until he can affirmatively show that the tax has since been refunded to the purchaser or credited to his account.

D. Any dealer who neglects, fails, or refuses to collect such tax upon every taxable sale, distribution, lease, or storage of tangible personal property made by him, his agents, or employees shall be liable for and pay the tax himself, and such dealer shall not thereafter be entitled to sue for or recover in this Commonwealth any part of the purchase price or rental from the purchaser until such tax is paid. Moreover, any dealer who neglects, fails, or refuses to pay or collect the tax herein provided, either by himself or through his agents or employees, shall be guilty of a Class 1 misdemeanor.

E. *Notwithstanding subsection D, any remote seller, single provider, or consolidated provider who has collected an incorrect amount of sales or use tax shall be relieved from liability for such additional amount, including any penalty or interest, if collection of the improper amount is a result of the remote seller, single provider, or consolidated provider's reasonable reliance upon information provided by the Commonwealth, including, but not limited to, any information obtained from software provided by the Department of Taxation pursuant to subsection B of § 58.1-601.*

F. All sums collected by a dealer as required by this chapter shall be deemed to be held in trust for the Commonwealth.

Notwithstanding the foregoing provisions of this section, any dealer is authorized during the period of time set forth in § 58.1-611.2 not to collect the tax levied by this chapter or levied under the authority granted in §§ 58.1-605 and 58.1-606 from the purchaser, and to absorb such tax himself. A dealer electing to absorb such taxes shall be liable for payment of such taxes to the Tax Commissioner in the same manner as he is for tax collected from a purchaser pursuant to this section.

**§ 58.1-635. Failure to file return; fraudulent return; civil penalties.**

A. When any dealer fails to make any return and pay the full amount of the tax required by this chapter, there shall be imposed, in addition to other penalties provided herein, a specific penalty to be added to the tax in the amount of six percent if the failure is for not more than one month, with an additional six percent for each additional month, or fraction thereof, during which the failure continues, not to exceed ~~thirty~~ 30 percent in the aggregate. In no case, however, shall the penalty be less than ~~ten dollars~~ \$10 and such minimum penalty shall apply whether or not any tax is due for the period for which such return was required. If such failure is due to providential or other good cause shown to the satisfaction of the Tax Commissioner, such return with or without remittance may be accepted exclusive of penalties. In the case of a false or fraudulent return where willful intent exists to defraud the Commonwealth of any tax due under this chapter, or in the case of a willful failure to file a return with the intent to defraud the Commonwealth of any such tax, a specific penalty of ~~fifty~~ 50 percent of the amount of the proper tax shall be assessed. All penalties and interest imposed by this chapter shall be payable by the dealer and collectible by the Tax Commissioner in the same manner as if they were a part of the tax imposed.

B. It shall be prima facie evidence of intent to defraud the Commonwealth of any tax due under this chapter when any dealer reports his gross sales, gross proceeds or cost price, as the case may be, at ~~fifty~~ 50 percent or less of the actual amount.

C. Interest at a rate determined in accordance with § 58.1-15, shall accrue on the tax until the same is paid, or until an assessment is made, pursuant to § 58.1-15, after which interest shall accrue as provided therein.

D. *Notwithstanding any other provision of this section, any remote seller, single provider, or consolidated provider who collects an incorrect amount of sales or use tax shall be relieved of any liability, including penalties and interest, if collection of the improper amount is the result of the remote seller, single provider, or consolidated provider's reasonable reliance on information that has been provided by the Commonwealth.*

**§ 58.1-638. Disposition of state sales and use tax revenue; localities' share; Game Protection Fund.**

A. The Comptroller shall designate a specific revenue code number for all the state sales and use tax revenue collected under the preceding sections of this chapter.

1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided in this section, to the Transportation Trust Fund as defined in § 33.1-23.03:1. 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

1290 month. All payments shall be made to the Fund on the last day of each month.

1291 2. There is hereby created in the Department of the Treasury a special nonreverting fund which shall  
1292 be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Port Fund.

1293 a. The Commonwealth Port Fund shall be established on the books of the Comptroller and the funds  
1294 remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in  
1295 the Fund. Interest earned on such funds shall remain in the Fund and be credited to it. Funds may be  
1296 paid to any authority, locality or commission for the purposes hereinafter specified.

1297 b. The amounts allocated pursuant to this section shall be allocated by the Commonwealth  
1298 Transportation Board to the Board of Commissioners of the Virginia Port Authority to be used to  
1299 support port capital needs and the preservation of existing capital needs of all ocean, river, or tributary  
1300 ports within the Commonwealth.

1301 c. Commonwealth Port Fund revenue shall be allocated by the Board of Commissioners to the  
1302 Virginia Port Authority in order to foster and stimulate the flow of maritime commerce through the  
1303 ports of Virginia, including but not limited to the ports of Richmond, Hopewell, and Alexandria.

1304 3. There is hereby created in the Department of the Treasury a special nonreverting fund which shall  
1305 be part of the Transportation Trust Fund and which shall be known as the Commonwealth Airport Fund.  
1306 The Commonwealth Airport Fund shall be established on the books of the Comptroller and any funds  
1307 remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in  
1308 the Fund. Interest earned on the funds shall be credited to the Fund. The funds so allocated shall be  
1309 allocated by the Commonwealth Transportation Board to the Virginia Aviation Board. The funds shall  
1310 be allocated by the Virginia Aviation Board to any Virginia airport which is owned by the  
1311 Commonwealth, a governmental subdivision thereof, or a private entity to which the public has access  
1312 for the purposes enumerated in § 5.1-2.16, or is owned or leased by the Metropolitan Washington  
1313 Airports Authority (MWAA), as follows:

1314 Any new funds in excess of \$12.1 million which are available for allocation by the Virginia Aviation  
1315 Board from the Commonwealth Transportation Fund, shall be allocated as follows: 60 percent to  
1316 MWAA, up to a maximum annual amount of \$2 million, and 40 percent to air carrier airports as  
1317 provided in subdivision A 3 a. Except for adjustments due to changes in enplaned passengers, no air  
1318 carrier airport sponsor, excluding MWAA, shall receive less funds identified under subdivision A 3 a  
1319 than it received in fiscal year 1994-1995.

1320 Of the remaining amount:

1321 a. Forty percent of the funds shall be allocated to air carrier airports, except airports owned or leased  
1322 by MWAA, based upon the percentage of enplanements for each airport to total enplanements at all air  
1323 carrier airports, except airports owned or leased by MWAA. No air carrier airport sponsor, however,  
1324 shall receive less than \$50,000 nor more than \$2 million per year from this provision.

1325 b. Forty percent of the funds shall be allocated by the Aviation Board for air carrier and reliever  
1326 airports on a discretionary basis, except airports owned or leased by MWAA.

1327 c. Twenty percent of the funds shall be allocated by the Aviation Board for general aviation airports  
1328 on a discretionary basis.

1329 3a. There is hereby created in the Department of the Treasury a special nonreverting fund that shall  
1330 be a part of the Transportation Trust Fund and that shall be known as the Commonwealth Space Flight  
1331 Fund. The Commonwealth Space Flight Fund shall be established on the books of the Comptroller and  
1332 the funds remaining in such Fund at the end of a biennium shall not revert to the general fund but shall  
1333 remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it.

1334 a. The amounts allocated to the Commonwealth Space Flight Fund pursuant to § 33.1-23.03:2 shall  
1335 be allocated by the Commonwealth Transportation Board to the Board of Directors of the Virginia  
1336 Commercial Space Flight Authority to be used to support the capital needs, maintenance, and operating  
1337 costs of any and all facilities owned and operated by the Virginia Commercial Space Flight Authority.

1338 b. Commonwealth Space Flight Fund revenue shall be allocated by the Board of Directors to the  
1339 Virginia Commercial Space Flight Authority in order to foster and stimulate the growth of the  
1340 commercial space flight industry in Virginia.

1341 4. There is hereby created in the Department of the Treasury a special nonreverting fund which shall  
1342 be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Mass  
1343 Transit Fund.

1344 a. The Commonwealth Mass Transit Fund shall be established on the books of the Comptroller and  
1345 any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but  
1346 shall remain in the Fund. Interest earned on such funds shall be credited to the Fund. Funds may be  
1347 paid to any local governing body, transportation district commission, or public service corporation for  
1348 the purposes hereinafter specified.

1349 b. The amounts allocated pursuant to this section shall be used to support the public transportation  
1350 administrative costs and the costs borne by the locality for the purchase of fuels, lubricants, tires and  
1351 maintenance parts and supplies for public transportation at a state share of 80 percent in 2002 and 95

percent in 2003 and succeeding years. These amounts may be used to support up to 95 percent of the local or nonfederal share of capital project costs for public transportation and ridesharing equipment, facilities, and associated costs. Capital costs may include debt service payments on local or agency transit bonds. The term "borne by the locality" means the local share eligible for state assistance consisting of costs in excess of the sum of fares and other operating revenues plus federal assistance received by the locality.

c. Commonwealth Mass Transit Fund revenue shall be allocated by the Commonwealth Transportation Board as follows:

(1) Funds for special programs, which shall include ridesharing, experimental transit, and technical assistance, shall not exceed 1.5 percent of the Fund.

(2) The Board may allocate these funds to any locality or planning district commission to finance up to 80 percent of the local share of all costs associated with the development, implementation, and continuation of ridesharing programs.

(3) Funds allocated for experimental transit projects may be paid to any local governing body, transportation district commission, or public corporation or may be used directly by the Department of Rail and Public Transportation for the following purposes:

(a) To finance up to 95 percent of the capital costs related to the development, implementation and promotion of experimental public transportation and ridesharing projects approved by the Board.

(b) To finance up to 95 percent of the operating costs of experimental mass transportation and ridesharing projects approved by the Board for a period of time not to exceed 12 months.

(c) To finance up to 95 percent of the cost of the development and implementation of any other project designated by the Board where the purpose of such project is to enhance the provision and use of public transportation services.

d. Funds allocated for public transportation promotion and operation studies may be paid to any local governing body, planning district commission, transportation district commission, or public transit corporation, or may be used directly by the Department of Rail and Public Transportation for the following purposes and aid of public transportation services:

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

(2) To finance up to 50 percent of the local share of public transportation operations planning and technical study projects approved by the Board.

e. At least 73.5 percent of the Fund shall be distributed to each transit property in the same proportion as its operating expenses bear to the total statewide operating expenses and shall be spent for the purposes specified in subdivision 4 b.

f. The remaining 25 percent shall be distributed for capital purposes on the basis of 95 percent of the nonfederal share for federal projects and 95 percent of the total costs for nonfederal projects. In the event that total capital funds available under this subdivision are insufficient to fund the complete list of eligible projects, the funds shall be distributed to each transit property in the same proportion that such capital expenditure bears to the statewide total of capital projects. Prior to the annual adoption of the Six-Year Improvement Program, the Commonwealth Transportation Board may allocate up to 20 percent of the funds in the Commonwealth Mass Transit Fund designated for capital purposes to transit operating assistance if operating funds for the next fiscal year are estimated to be less than the current fiscal year's allocation, to attempt to maintain transit operations at approximately the same level as the previous fiscal year.

g. 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 § 56-557 and for purposes as enumerated in subdivision 4c of § 33.1-269 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. Projects financed by the Commonwealth Transit

1413 Capital Fund shall receive local, regional or private funding for at least 20 percent of the nonfederal  
1414 share of the total project cost.

1415 5. Funds for Metro shall be paid by the Northern Virginia Transportation Commission (NVTC) to the  
1416 Washington Metropolitan Area Transit Authority (WMATA) and be a credit to the Counties of  
1417 Arlington and Fairfax and the Cities of Alexandria, Falls Church and Fairfax in the following manner:

1418 a. Local obligations for debt service for WMATA rail transit bonds apportioned to each locality  
1419 using WMATA's capital formula shall be paid first by NVTC. NVTC shall use 95 percent state aid for  
1420 these payments.

1421 b. The remaining funds shall be apportioned to reflect WMATA's allocation formulas by using the  
1422 related WMATA-allocated subsidies and relative shares of local transit subsidies. Capital costs shall  
1423 include 20 percent of annual local bus capital expenses. Hold harmless protections and obligations for  
1424 NVTC's jurisdictions agreed to by NVTC on November 5, 1998, shall remain in effect.

1425 Appropriations from the Commonwealth Mass Transit Fund are intended to provide a stable and  
1426 reliable source of revenue as defined by Public Law 96-184.

1427 B. The sales and use tax revenue generated by a one percent sales and use tax shall be distributed  
1428 among the counties and cities of the Commonwealth in the manner provided in subsections C and D.

1429 C. The localities' share of the net revenue distributable under this section among the counties and  
1430 cities shall be apportioned by the Comptroller and distributed among them by warrants of the  
1431 Comptroller drawn on the Treasurer of Virginia as soon as practicable after the close of each month  
1432 during which the net revenue was received into the state treasury. The distribution of the localities' share  
1433 of such net revenue shall be computed with respect to the net revenue received into the state treasury  
1434 during each month, and such distribution shall be made as soon as practicable after the close of each  
1435 such month.

1436 D. The net revenue so distributable among the counties and cities shall be apportioned and  
1437 distributed upon the basis of the latest yearly estimate of the population of cities and counties ages five  
1438 to 19, provided by the Weldon Cooper Center for Public Service of the University of Virginia. Such  
1439 population estimate produced by the Weldon Cooper Center for Public Service of the University of  
1440 Virginia shall account for persons who are domiciled in orphanages or charitable institutions or who are  
1441 dependents living on any federal military or naval reservation or other federal property within the school  
1442 division in which the institutions or federal military or naval reservation or other federal property is  
1443 located. Such population estimate produced by the Weldon Cooper Center for Public Service of the  
1444 University of Virginia shall account for members of the military services who are under 20 years of age  
1445 within the school division in which the parents or guardians of such persons legally reside. Such  
1446 population estimate produced by the Weldon Cooper Center for Public Service of the University of  
1447 Virginia shall account for individuals receiving services in state hospitals, state training centers, or  
1448 mental health facilities, persons who are confined in state or federal correctional institutions, or persons  
1449 who attend the Virginia School for the Deaf and the Blind within the school division in which the  
1450 parents or guardians of such persons legally reside. Such population estimate produced by the Weldon  
1451 Cooper Center for Public Service of the University of Virginia shall account for persons who attend  
1452 institutions of higher education within the school division in which the student's parents or guardians  
1453 legally reside. To such estimate, the Department of Education shall add the population of students with  
1454 disabilities, ages two through four and 20 through 21, as provided to the Department of Education by  
1455 school divisions. The revenue so apportionable and distributable is hereby appropriated to the several  
1456 counties and cities for maintenance, operation, capital outlays, debt and interest payments, or other  
1457 expenses incurred in the operation of the public schools, which shall be considered as funds raised from  
1458 local resources. In any county, however, wherein is situated any incorporated town constituting a school  
1459 division, the county treasurer shall pay into the town treasury for maintenance, operation, capital outlays,  
1460 debt and interest payments, or other expenses incurred in the operation of the public schools, the proper  
1461 proportionate amount received by him in the ratio that the school population of such town bears to the  
1462 school population of the entire county. If the school population of any city or of any town constituting a  
1463 school division is increased by the annexation of territory since the last estimate of school population  
1464 provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this  
1465 section, be added to the school population of such city or town as shown by the last such estimate and a  
1466 proper reduction made in the school population of the county or counties from which the annexed  
1467 territory was acquired.

1468 E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a  
1469 two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of  
1470 hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment,  
1471 wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the  
1472 most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of  
1473 Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated  
1474 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. *Beginning July 1, 2013, of the remaining sales and use tax revenue, an amount equal to the following percentages of the revenue generated by a one-half percent sales and use tax, such as that paid to the Transportation Trust Fund as provided in subdivision A 1, shall be paid to the Highway Maintenance and Operating Fund:*

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

*The Highway Maintenance and Operating Fund's share of the net revenue distributable under this subsection shall be computed as an estimate of the net revenue to be received into the state treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall be made to the Fund on the last day of each month.*

H. 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 § 15.2-4838.01.*

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 § 33.1-23.5:3.*

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

4. *The net revenues distributable under this subsection shall be computed as an estimate of the net revenue to be received by the state treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall be made to the appropriate funds on the last day of each month.*

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

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

**§ 58.1-638.2. Disposition of state and local sales tax revenue collected pursuant to federal legislation granting remote collection authority.**

*Notwithstanding any provisions of § 58.1-638 to the contrary, any state and local sales and use tax revenue collected pursuant to federal legislation granting the Commonwealth authority to compel remote sellers to collect the tax for sales made into the Commonwealth shall be paid in the manner provided in*

1536 *this section:*

1537 *1. The sales and use tax revenue generated by a one percent sales and use tax shall be distributed*  
1538 *among the counties and cities of the Commonwealth in the manner provided in subsections F and G of*  
1539 *§§ 58.1-605 and 58.1-606. Each locality shall be required to designate an amount equal to 50 percent*  
1540 *of the local sales and use tax distribution to transportation needs.*

1541 *2. The sales and use tax revenue generated by a one percent sales and use tax shall be distributed*  
1542 *among the counties and cities of the Commonwealth in the manner provided in subsections C and D of*  
1543 *§ 58.1-638.*

1544 *3. The sales and use tax revenue generated by a 0.25 percent sales and use tax shall be distributed*  
1545 *among the counties and cities of the Commonwealth in the manner provided in § 58.1-638.1.*

1546 *4. The Comptroller shall transfer annually to each locality that levied the local tax on fuels for*  
1547 *domestic consumption pursuant to the former § 58.1-609.13 an amount to compensate the locality for*  
1548 *the locality's revenue loss resulting from cessation of the local authority to impose tax on the sale of*  
1549 *fuel for domestic consumption due to the repeal of § 58.1-609.13. The amount paid to the locality shall*  
1550 *be an amount equal to the locality's revenue from its tax on fuels for domestic consumption in the*  
1551 *calendar year prior to the repeal of § 58.1-609.13, but the aggregate amount of such revenue paid to all*  
1552 *localities shall not exceed \$7.5 million per year. If the total aggregate amount exceeds \$7.5 million,*  
1553 *then each locality shall receive a pro rata portion based on the proportion that the locality's revenue*  
1554 *from its tax on fuels for domestic consumption in the calendar year preceding the repeal of*  
1555 *§ 58.1-609.13 is to the total amount of such revenue in all localities that levied such tax.*

1556 *5. Notwithstanding §§ 58.1-605, 58.1-606, and 58.1-638, all remaining revenue collected pursuant to*  
1557 *this section, as estimated by the Department, shall be transferred to the Transportation Trust Fund to be*  
1558 *allocated pursuant to § 33.1-23.03:2.*

1559 **§ 58.1-638.3. Disposition of 0.3 percent state and local sales tax for transportation.**

1560 *A. The sales and use tax revenue generated by the 0.3 percent sales and use tax increase enacted by*  
1561 *the 2013 Session of the General Assembly shall be allocated as follows:*

1562 *1. An amount equal to a 0.175 percent sales and use tax shall be deposited into the Highway*  
1563 *Maintenance and Operating Fund;*

1564 *2. An amount equal to a 0.05 percent sales and use tax shall be deposited into the Intercity*  
1565 *Passenger Rail Operating and Capital Fund established under § 33.1-221.1:1.3; and*

1566 *3. An amount equal to a 0.075 percent sales and use tax shall be deposited into the Commonwealth*  
1567 *Mass Transit Fund.*

1568 *B. The net revenues distributable under this section shall be computed as an estimate of the net*  
1569 *revenue to be received by the state treasury each month, and such estimated payment shall be adjusted*  
1570 *for the actual net revenue received in the preceding month. All payments shall be made to the funds set*  
1571 *forth in subsection A on the last day of each month.*

1572 **§ 58.1-639. Transitional provisions.**

1573 *A. To the extent of the ~~one-half~~ 0.3 percent increase in the state sales and use tax rate effective*  
1574 *August 1, 2004 July 1, 2013, enacted by the 2004 Special Session I 2013 Session of the Virginia*  
1575 *General Assembly, the Tax Commissioner, upon application of the purchaser in accordance with*  
1576 *regulations promulgated by the Commissioner, shall have the authority to refund state sales or use taxes*  
1577 *paid on purchases of tangible personal property made pursuant to bona fide real estate construction*  
1578 *contracts, contracts for the sale of tangible personal property, and leases, provided that the real estate*  
1579 *construction contract, contract for the sale of tangible personal property or lease is entered into prior to*  
1580 *the date of enactment of such increase in the state sales and use tax rate; and further provided that the*  
1581 *date of delivery of the tangible personal property is on or before October 31, 2004 September 30, 2013.*  
1582 *The term "bona fide contract," when used in this section in relation to real estate construction contracts,*  
1583 *shall include but not be limited to those contracts which are entered into prior to the enactment of such*  
1584 *increase in the state sales and use tax rate, provided that such contracts include plans and specifications.*

1585 *B. Notwithstanding the foregoing October 31, 2004 September 30, 2013, delivery date requirement,*  
1586 *with respect to bona fide real estate construction contracts which contain a specific and stated date of*  
1587 *completion, the date of delivery of such tangible personal property shall be on or before the completion*  
1588 *date of the applicable project.*

1589 *C. Applications for refunds pursuant to this section shall be made in accordance with the provisions*  
1590 *of § 58.1-1823. Interest computed in accordance with § 58.1-1833 shall be added to the tax refunded*  
1591 *pursuant to this section.*

1592 **§ 58.1-802.2. Regional congestion relief fee.**

1593 *In addition to any other tax or fee imposed under the provisions of this chapter, a fee, delineated as*  
1594 *the "regional congestion relief fee," is hereby imposed on each deed, instrument, or writing by which*  
1595 *lands, tenements, or other realty located in any county or city in a Planning District described in this*  
1596 *section is sold and is granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser*  
1597 *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 \$0.15 for each \$100 or fraction thereof, exclusive of the value of any lien or encumbrance remaining thereon at the time of the sale, whether such lien is assumed or the realty is sold subject to such lien or encumbrance. 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 § 15.2-4838.01. For additional Planning Districts that may become subject to this section, funds shall be established by appropriate legislation.

#### § 58.1-811. Exemptions.

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

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

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

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

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

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

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

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

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

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

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

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

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

13. When the grantor is the personal representative of a decedent's estate or trustee under a will or



inter vivos trust of which the decedent was the settlor, other than a security trust defined in § 55-58.1, and the sole purpose of such transfer is to comply with a devise or bequest in the decedent's will or to transfer title to one or more beneficiaries after the death of the settlor in accordance with a dispositive provision in the trust instrument; or

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

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; or

5. Securing a loan made by an organization described in subdivision A 14 of subsection A of this section.

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

1. Transaction described in subdivisions A 6 through 13 of subsection A of this section;

2. Instrument or writing given to secure a debt;

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

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

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

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

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

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

F. The taxes and fees imposed by §§ 58.1-801, 58.1-802, 58.1-802.2, 58.1-807, 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 subdivision 2 of subsection A, subdivision 2 of subsection B, and subdivision 6 of subsection C, 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 (§ 56-556 et seq.) or similar federal law.

Article 10.

Regional Transient Occupancy Tax.

**§ 58.1-1742. Regional transient occupancy tax.**

*In addition all other fees and taxes imposed under law, there is hereby imposed an additional transient occupancy tax at the rate of two percent of the amount of the charge for the occupancy of any room or space occupied in any county or city 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 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). In any case in which the tax is imposed pursuant to clause (ii)*

such tax shall be effective beginning on the July 1 immediately following the calendar year in which all of the criteria have been met.

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

The tax imposed under this section shall be administered by the locality in which the room or space is located in the same manner as it administers the tax authorized by § 58.1-3819 or 58.1-3840, *mutatis mutandis*, except as herein provided. The revenue generated and collected from the tax shall be deposited by the local treasurer into the state treasury pursuant to § 2.2-806 and transferred by the Comptroller 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 § 15.2-4838.01. For additional Planning Districts that may become subject to this section, funds shall be established by appropriate legislation.

#### § 58.1-2201. Definitions.

As used in this chapter, unless the context requires otherwise:

"Alternative fuel" means a combustible gas, liquid or other energy source that can be used to generate power to operate a highway vehicle and that is neither a motor fuel nor electricity used to recharge an electric motor vehicle or a hybrid electric motor vehicle.

"Alternative fuel vehicle" means a vehicle equipped to be powered by a combustible gas, liquid, or other source of energy that can be used to generate power to operate a highway vehicle and that is neither a motor fuel nor electricity used to recharge an electric motor vehicle or a hybrid electric motor vehicle.

"Assessment" means a written determination by the Department of the amount of taxes owed by a taxpayer. Assessments made by the Department shall be deemed to be made when a written notice of assessment is delivered to the taxpayer by the Department or is mailed to the taxpayer at the last known address appearing in the Commissioner's files.

"Aviation consumer" means any person who uses in excess of 100,000 gallons of aviation jet fuel in any fiscal year and is licensed pursuant to Article 2 (§ 58.1-2204 et seq.) of this chapter.

"Aviation fuel" means aviation gasoline or aviation jet fuel.

"Aviation gasoline" means fuel designed for use in the operation of aircraft other than jet aircraft, and sold or used for that purpose.

"Aviation jet fuel" means fuel designed for use in the operation of jet or turbo-prop aircraft, and sold or used for that purpose.

"Blended fuel" means a mixture composed of gasoline or diesel fuel and another liquid, other than a de minimis amount of a product such as carburetor detergent or oxidation inhibitor, that can be used as a fuel in a highway vehicle.

"Blender" means a person who produces blended fuel outside the terminal transfer system.

"Bonded aviation jet fuel" means aviation jet fuel held in bonded storage under United States Customs Law and delivered into a fuel tank of aircraft operated by certificated air carriers on international flights.

"Bonded importer" means a person, other than a supplier, who imports, by transport truck or other means of transfer outside the terminal transfer system, motor fuel removed from a terminal located in another state in which (i) the state from which the fuel is imported does not require the seller of the fuel to collect motor fuel tax on the removal either at that state's rate or the rate of the destination state; (ii) the supplier of the fuel is not an elective supplier; or (iii) the supplier of the fuel is not a permissive supplier.

"Bulk plant" means a motor fuel storage and distribution facility that is not a terminal and from which motor fuel may be removed at a rack.

"Bulk user" means a person who maintains storage facilities for motor fuel and uses part or all of the stored fuel to operate a highway vehicle, watercraft, or aircraft.

"Bulk user of alternative fuel" means a person who maintains storage facilities for alternative fuel and uses part or all of the stored fuel to operate a highway vehicle.

"Commercial watercraft" means a watercraft employed in the business of commercial fishing, transporting persons or property for compensation or hire, or any other trade or business unless the watercraft is used in an activity of a type generally considered entertainment, amusement, or recreation. The definition shall include a watercraft owned by a private business and used in the conduct of its own business or operations, including but not limited to the transport of persons or property.

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

"Corporate or partnership officer" means an officer or director of a corporation, partner of a partnership, or member of a limited liability company, who as such officer, director, partner or member is under a duty to perform on behalf of the corporation, partnership, or limited liability company the tax collection, accounting, or remitting obligations.

1782 "Department" means the Department of Motor Vehicles, acting directly or through its duly authorized  
1783 officers and agents.

1784 "Designated inspection site" means any state highway inspection station, weigh station, agricultural  
1785 inspection station, mobile station, or other location designated by the Commissioner or his designee to  
1786 be used as a fuel inspection site.

1787 "Destination state" means the state, territory, or foreign country to which motor fuel is directed for  
1788 delivery into a storage facility, a receptacle, a container, or a type of transportation equipment for the  
1789 purpose of resale or use. The term shall not include a tribal reservation of any recognized Native  
1790 American tribe.

1791 "Diesel fuel" means any liquid that is suitable for use as a fuel in a diesel-powered highway vehicle  
1792 or watercraft. The term shall include undyed #1 fuel oil and undyed #2 fuel oil, but shall not include  
1793 gasoline or aviation jet fuel.

1794 "Distributor" means a person who acquires motor fuel from a supplier or from another distributor for  
1795 subsequent sale.

1796 "Dyed diesel fuel" means diesel fuel that meets the dyeing and marking requirements of 26 U.S.C.  
1797 § 4082.

1798 "Elective supplier" means a supplier who (i) is required to be licensed in the Commonwealth and (ii)  
1799 elects to collect the tax due the Commonwealth on motor fuel that is removed at a terminal located in  
1800 another state and has Virginia as its destination state.

1801 "Electric motor vehicle" means a motor vehicle that uses electricity as its only source of motive  
1802 power.

1803 "End seller" means the person who sells fuel to the ultimate user of the fuel.

1804 "Export" means to obtain motor fuel in Virginia for sale or distribution in another state, territory, or  
1805 foreign country. Motor fuel delivered out-of-state by or for the seller constitutes an export by the seller,  
1806 and motor fuel delivered out-of-state by or for the purchaser constitutes an export by the purchaser.

1807 "Exporter" means a person who obtains motor fuel in Virginia for sale or distribution in another  
1808 state, territory, or foreign country.

1809 "Fuel" includes motor fuel and alternative fuel.

1810 "Fuel alcohol" means methanol or fuel grade ethanol.

1811 "Fuel alcohol provider" means a person who (i) produces fuel alcohol or (ii) imports fuel alcohol  
1812 outside the terminal transfer system by means of a marine vessel, a transport truck, a tank wagon, or a  
1813 railroad tank car.

1814 "Gasohol" means a blended fuel composed of gasoline and fuel grade ethanol.

1815 "Gasoline" means (i) all products that are commonly or commercially known or sold as gasoline and  
1816 are suitable for use as a fuel in a highway vehicle, aircraft, or watercraft, other than products that have  
1817 an American Society for Testing Materials octane number of less than 75 as determined by the motor  
1818 method; (ii) a petroleum product component of gasoline, such as naphtha, reformate, or toluene; (iii)  
1819 gasohol; and (iv) fuel grade ethanol. The term does not include aviation gasoline sold for use in an  
1820 aircraft engine.

1821 "Governmental entity" means (i) the Commonwealth or any political subdivision thereof or (ii) the  
1822 United States or its departments, agencies, and instrumentalities.

1823 "Gross gallons" means an amount of motor fuel measured in gallons, exclusive of any temperature,  
1824 pressure, or other adjustments.

1825 "Heating oil" means any combustible liquid, including but not limited to dyed #1 fuel oil, dyed #2  
1826 fuel oil, and kerosene, that is burned in a boiler, furnace, or stove for heating or for industrial  
1827 processing purposes.

1828 "Highway" means every way or place of whatever nature open to the use of the public for purposes  
1829 of vehicular travel in the Commonwealth, including the streets and alleys in towns and cities.

1830 "Highway vehicle" means a self-propelled vehicle designed for use on a highway.

1831 "*Hybrid electric motor vehicle*" means a motor vehicle that uses electricity and another source of  
1832 motive power.

1833 "Import" means to bring motor fuel into Virginia by any means of conveyance other than in the fuel  
1834 supply tank of a highway vehicle. Motor fuel delivered into Virginia from out-of-state by or for the  
1835 seller constitutes an import by the seller, and motor fuel delivered into Virginia from out-of-state by or  
1836 for the purchaser constitutes an import by the purchaser.

1837 "Importer" means a person who obtains motor fuel outside of Virginia and brings that motor fuel  
1838 into Virginia by any means of conveyance other than in the fuel tank of a highway vehicle. For  
1839 purposes of this chapter, a motor fuel transporter shall not be considered an importer.

1840 "In-state-only supplier" means (i) a supplier who is required to have a license and who elects not to  
1841 collect the tax due the Commonwealth on motor fuel that is removed by that supplier at a terminal  
1842 located in another state and has Virginia as its destination state or (ii) a supplier who does business only  
1843 in Virginia.

- 1844 "Licensee" means any person licensed by the Commissioner pursuant to Article 2 (§ 58.1-2204 et  
1845 seq.) of this chapter or § 58.1-2244.
- 1846 "Liquid" means any substance that is liquid above its freezing point.
- 1847 "Motor fuel" means gasoline, diesel fuel, blended fuel, and aviation fuel.
- 1848 "Motor fuel transporter" means a person who transports motor fuel for hire by means of a pipeline, a  
1849 tank wagon, a transport truck, a railroad tank car, or a marine vessel.
- 1850 "Net gallons" means the amount of motor fuel measured in gallons when adjusted to a temperature of  
1851 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch.
- 1852 "Occasional importer" means any person who (i) imports motor fuel by any means outside the  
1853 terminal transfer system and (ii) is not required to be licensed as a bonded importer.
- 1854 "Permissive supplier" means an out-of-state supplier who elects, but is not required, to have a  
1855 supplier's license under this chapter.
- 1856 "Person" means any individual; firm; cooperative; association; corporation; limited liability company;  
1857 trust; business trust; syndicate; partnership; limited liability partnership; joint venture; receiver; trustee in  
1858 bankruptcy; club, society or other group or combination acting as a unit; or public body, including but  
1859 not limited to the Commonwealth, any other state, and any agency, department, institution, political  
1860 subdivision or instrumentality of the Commonwealth or any other state.
- 1861 "Position holder" means a person who holds an inventory position of motor fuel in a terminal, as  
1862 reflected on the records of the terminal operator. A person holds an "inventory position of motor fuel"  
1863 when he has a contract with the terminal operator for the use of storage facilities and terminaling  
1864 services for fuel at the terminal. The term includes a terminal operator who owns fuel in the terminal.
- 1865 "Principal" means (i) if a partnership, all its partners; (ii) if a corporation, all its officers, directors,  
1866 and controlling direct or indirect owners; (iii) if a limited liability company, all its members; and (iv) or  
1867 an individual.
- 1868 "Provider of alternative fuel" means a person who (i) acquires alternative fuel for sale or delivery to  
1869 a bulk user or a retailer; (ii) maintains storage facilities for alternative fuel, part or all of which the  
1870 person sells to someone other than a bulk user or a retailer to operate a highway vehicle; (iii) sells  
1871 alternative fuel and uses part of the fuel acquired for sale to operate a highway vehicle by means of a  
1872 fuel supply line from the cargo tank of the vehicle to the engine of the vehicle; or (iv) imports  
1873 alternative fuel into Virginia, by a means other than the usual tank or receptacle connected with the  
1874 engine of a highway vehicle, for sale or use by that person to operate a highway vehicle.
- 1875 "Rack" means a facility that contains a mechanism for delivering motor fuel from a refinery,  
1876 terminal, or bulk plant into a transport truck, railroad tank car, or other means of transfer that is outside  
1877 the terminal transfer system.
- 1878 "Refiner" means any person who owns, operates, or otherwise controls a refinery.
- 1879 "Refinery" means a facility for the manufacture or reprocessing of finished or unfinished petroleum  
1880 products usable as motor fuel and from which motor fuel may be removed by pipeline or marine vessel  
1881 or at a rack.
- 1882 "Removal" means a physical transfer other than by evaporation, loss, or destruction. A physical  
1883 transfer to a transport truck or other means of conveyance outside the terminal transfer system is  
1884 complete upon delivery into the means of conveyance.
- 1885 "Retailer" means a person who (i) maintains storage facilities for motor fuel and (ii) sells the fuel at  
1886 retail or dispenses the fuel at a retail location.
- 1887 "Retailer of alternative fuel" means a person who (i) maintains storage facilities for alternative fuel  
1888 and (ii) sells or dispenses the fuel at retail, to be used to generate power to operate a highway vehicle.
- 1889 "Supplier" means (i) a position holder, or (ii) a person who receives motor fuel pursuant to a  
1890 two-party exchange. A licensed supplier includes a licensed elective supplier and licensed permissive  
1891 supplier.
- 1892 "System transfer" means a transfer (i) of motor fuel within the terminal transfer system or (ii) of fuel  
1893 grade ethanol by transport truck or railroad tank car.
- 1894 "Tank wagon" means a straight truck or straight truck/trailer combination designed or used to carry  
1895 fuel and having a capacity of less than 6,000 gallons.
- 1896 "Terminal" means a motor fuel storage and distribution facility (i) to which a terminal control  
1897 number has been assigned by the Internal Revenue Service, (ii) to which motor fuel is supplied by  
1898 pipeline or marine vessel, and (iii) from which motor fuel may be removed at a rack.
- 1899 "Terminal operator" means a person who owns, operates, or otherwise controls a terminal.
- 1900 "Terminal transfer system" means a motor fuel distribution system consisting of refineries, pipelines,  
1901 marine vessels, and terminals, and which is a "bulk transfer/terminal system" under 26 C.F.R. Part  
1902 48.4081-1.
- 1903 "Transmix" means (i) the buffer or interface between two different products in a pipeline shipment or  
1904 (ii) a mix of two different products within a refinery or terminal that results in an off-grade mixture.

1905 "Transport truck" means a tractor truck/semitrailer combination designed or used to transport cargoes  
1906 of motor fuel over a highway.

1907 "Trustee" means a person who (i) is licensed as a supplier, an elective supplier, or a permissive  
1908 supplier and receives tax payments from and on behalf of a licensed or unlicensed distributor, or other  
1909 person pursuant to § 58.1-2231 or (ii) is licensed as a provider of alternative fuel and receives tax  
1910 payments from and on behalf of a bulk user of alternative fuel, retailer of alternative fuel or other  
1911 person pursuant to § 58.1-2252.

1912 "Two-party exchange" means a transaction in which fuel is transferred from one licensed supplier to  
1913 another licensed supplier pursuant to an exchange agreement, which transaction (i) includes a transfer  
1914 from the person who holds the inventory position in taxable motor fuel in the terminal as reflected on  
1915 the records of the terminal operator and (ii) is completed prior to removal of the product from the  
1916 terminal by the receiving exchange partner.

1917 "Undyed diesel fuel" means diesel fuel that is not subject to the United States Environmental  
1918 Protection Agency or Internal Revenue Service fuel-dyeing requirements.

1919 "Use" means the actual consumption or receipt of motor fuel by any person into a highway vehicle,  
1920 aircraft, or watercraft.

1921 "Watercraft" means any vehicle used on waterways.

1922 "Wholesale price" means the price at the rack.

1923 **§ 58.1-2217. Taxes levied; rate.**

1924 A. There is hereby levied a tax at the rate of seventeen and one-half cents per gallon on gasoline and  
1925 gasohol. *Beginning July 1, 2013, the seventeen and one-half cents per gallon tax shall be replaced with*  
1926 *a tax at a rate of 3.5 percent of the statewide average wholesale price of a gallon of unleaded regular*  
1927 *gasoline for the applicable base period, excluding federal and state excise taxes, as determined by the*  
1928 *Commissioner.*

1929 *In computing the average wholesale price of a gallon of unleaded regular gasoline, the*  
1930 *Commissioner shall use the period from December 1 through May 31 as the base period for such*  
1931 *determination for the immediately following period beginning July 1 and ending December 31, inclusive.*  
1932 *The period from June 1 through November 30 shall be the next base period for the immediately*  
1933 *following period beginning January 1 and ending June 30, inclusive. In no case shall the average*  
1934 *wholesale price computed for purposes of this section be less than the statewide average wholesale price*  
1935 *of a gallon of unleaded regular gasoline on February 20, 2013.*

1936 B. ~~(Contingent expiration date)~~ There is hereby levied a tax at the rate of seventeen and one-half  
1937 cents per gallon on diesel fuel. *Beginning July 1, 2013, the seventeen and one-half cents per gallon tax*  
1938 *shall be replaced with a tax at a rate of six percent of the statewide average wholesale price of a*  
1939 *gallon of diesel fuel for the applicable base period, excluding federal and state excise taxes, as*  
1940 *determined by the Commissioner.*

1941 *In computing the average wholesale price of a gallon of diesel fuel the Commissioner shall use the*  
1942 *period from December 1 through May 31 as the base period for such determination for the immediately*  
1943 *following period beginning July 1 and ending December 31, inclusive. The period from June 1 through*  
1944 *November 30 shall be the next base period for the immediately following period beginning January 1*  
1945 *and ending June 30, inclusive. In no case shall the average wholesale price computed for purposes of*  
1946 *this section be less than the statewide average wholesale price of a gallon of diesel fuel on February*  
1947 *20, 2013.*

1948 B. ~~(Contingent effective date)~~ There is hereby levied a tax at the rate of sixteen cents per gallon on  
1949 diesel fuel.

1950 C. Blended fuel that contains gasoline shall be taxed at the rate levied on gasoline. Blended fuel that  
1951 contains diesel fuel shall be taxed at the rate levied on diesel fuel.

1952 D. There is hereby levied a tax at the rate of five cents per gallon on aviation gasoline. Any person,  
1953 whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in  
1954 highway vehicles any aviation gasoline shall be liable for the tax at the rate of ~~seventeen and one-half~~  
1955 ~~cents per gallon levied on gasoline and gasohol~~, along with any penalties and interest that may accrue.

1956 E. ~~(Contingent expiration date)~~ There is hereby levied a tax at the rate of five cents per gallon on  
1957 aviation jet fuel purchased or acquired for use by a user of aviation fuel other than an aviation  
1958 consumer. There is hereby levied a tax at the rate of five cents per gallon upon the first 100,000 gallons  
1959 of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by any aviation  
1960 consumer in any fiscal year. There is hereby levied a tax at the rate of one-half cent per gallon on all  
1961 aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by an aviation  
1962 consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not licensed under  
1963 this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation jet  
1964 fuel taxable under this chapter shall be liable for the tax imposed at the rate of ~~seventeen and one-half~~  
1965 ~~cents per gallon levied on diesel fuel~~, along with any penalties and interest that may accrue.

1966 E. ~~(Contingent effective date)~~ 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 of sixteen cents per gallon, 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. (Contingent expiration date) There is hereby levied a tax at the rate of seventeen and one-half cents per gallon 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 seventeen and one-half cents per gallon 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.

A. (Contingent effective date) There is hereby levied a tax at the rate of sixteen cents per gallon 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 sixteen cents per gallon 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. In addition to any tax imposed by this article, there is hereby levied an annual license tax of \$50 \$64 per vehicle on each highway vehicle registered in Virginia that is an electric motor vehicle, a hybrid 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.

**§ 58.1-2251. Liability for tax; filing returns; payment of tax.**

A. A bulk user of alternative fuel or retailer of alternative fuel who stores highway and nonhighway alternative fuel in the same storage tank shall be liable for the tax imposed by this article, and shall file tax returns and remit taxes in accordance with subsection D. The tax payable by a bulk user of alternative fuel or retailer of alternative fuel is imposed at the point that alternative fuel is withdrawn from the storage tank.

B. A provider of alternative fuel who sells or delivers alternative fuel shall be liable for the tax imposed by this article (i) on sales to a bulk user of alternative fuel or retailer of alternative fuel who stores highway product in a separate storage tank or (ii) if the alternative fuel is sold or used by the provider of alternative fuel for highway use.

C. The owner of a highway vehicle subject to an annual license tax pursuant to subsection B of § 58.1-2249 shall be liable for such annual license tax. The annual license tax shall be due on or before the last day of December of each year when the highway vehicle is first registered in Virginia and upon each subsequent renewal of registration.

D. 1. Each (i) bulk user of alternative fuel or retailer of alternative fuel liable for tax pursuant to subsection A and (ii) provider of alternative fuel liable for the tax pursuant to subsection B shall file a monthly tax return with the Department. The tax on alternative fuel levied by this article, except for the annual license tax imposed under subsection B of § 58.1-2249, that is required to be remitted to the Commonwealth shall be payable to the Commonwealth not later than the date on which the return is due. A return and payment shall be (i) postmarked on or before the fifteenth day of the second month succeeding the month for which the return and payment are due or (ii) received by the Department by the twentieth day of the second month succeeding the month for which the return and payment are due. However, a monthly return of the tax for the month of May shall be (i) postmarked by June 25 or (ii) received by the Commissioner by the last business day the Department is open for business in June.

2. If a tax return and payment due date falls on a Saturday, Sunday, or a state or banking holiday, the return shall be postmarked on or before the fifteenth day of the second month succeeding the month for which the return and payment are due or received by the Department by midnight of the next business day the Department is open for business. This provision shall not apply to a return of the tax

2028 for the month of May.

2029 3. A return and payment shall be deemed postmarked if it carries the official cancellation mark of  
2030 the United States Postal Service or other postal or delivery service.

2031 4. A return shall be filed with the Commissioner and shall be in the form and contain the  
2032 information required by the Commissioner.

2033 **§ 58.1-2259. Fuel uses eligible for refund of taxes paid for motor fuels.**

2034 A. A refund of the tax paid for the purchase of fuel in quantities of five gallons or more at any time  
2035 shall be granted in accordance with the provisions of § 58.1-2261 to any person who establishes to the  
2036 satisfaction of the Commissioner that such person has paid the tax levied pursuant to this chapter upon  
2037 any fuel:

2038 1. Sold and delivered to a governmental entity for its exclusive use;

2039 2. Used by a governmental entity, provided persons operating under contract with a governmental  
2040 entity shall not be eligible for such refund;

2041 3. Sold and delivered to an organization described in subdivision 2 of § 58.1-2226 or subdivision 2  
2042 of § 58.1-2250 for its exclusive use in the operation of an aircraft;

2043 4. Used by an organization described in subdivision 2 of § 58.1-2226 or subdivision 2 of § 58.1-2250  
2044 for its exclusive use in the operation of an aircraft, provided persons operating under contract with such  
2045 an organization shall not be eligible for such refund;

2046 5. Purchased by a licensed exporter and subsequently transported and delivered by such licensed  
2047 exporter to another state for sales or use outside the boundaries of the Commonwealth if the tax  
2048 applicable in the destination state has been paid, provided a refund shall not be granted pursuant to this  
2049 section on any fuel which is transported and delivered outside of the Commonwealth in the fuel supply  
2050 tank of a highway vehicle or an aircraft;

2051 6. Used by any person performing transportation under contract or lease with any transportation  
2052 district for use in a highway vehicle controlled by a transportation district created under the  
2053 Transportation District Act of 1964 (§ 15.2-4500 et seq.) and used in providing transit service by the  
2054 transportation district by contract or lease, provided the refund shall be paid to the person performing  
2055 such transportation;

2056 7. Used by any private, nonprofit agency on aging, designated by the Department for Aging and  
2057 Rehabilitative Services, providing transportation services to citizens in highway vehicles owned, operated  
2058 or under contract with such agency;

2059 8. Used in operating or propelling highway vehicles owned by a nonprofit organization that provides  
2060 specialized transportation to various locations for elderly or disabled individuals to secure essential  
2061 services and to participate in community life according to the individual's interest and abilities;

2062 9. Used in operating or propelling buses owned and operated by a county or the school board thereof  
2063 while being used to transport children to and from public school or from school to and from educational  
2064 or athletic activities;

2065 10. Used by buses owned or solely used by a private, nonprofit, nonreligious school while being  
2066 used to transport children to and from such school or from such school to and from educational or  
2067 athletic activities;

2068 11. Used by any county or city school board or any private, nonprofit, nonreligious school  
2069 contracting with a private carrier to transport children to and from public schools or any private,  
2070 nonprofit, nonreligious school, provided the tax shall be refunded to the private carrier performing such  
2071 transportation;

2072 12. Used in operating or propelling the equipment of volunteer firefighting companies and of  
2073 volunteer rescue squads within the Commonwealth used actually and necessarily for firefighting and  
2074 rescue purposes;

2075 13. Used in operating or propelling motor equipment belonging to counties, cities and towns, if  
2076 actually used in public activities;

2077 14. Used for a purpose other than in operating or propelling highway vehicles, watercraft or aircraft;

2078 15. Used off-highway in self-propelled equipment manufactured for a specific off-road purpose,  
2079 which is used on a job site and the movement of which on any highway is incidental to the purpose for  
2080 which it was designed and manufactured;

2081 16. Proven to be lost by accident, including the accidental mixing of (i) dyed diesel fuel with  
2082 tax-paid motor fuel, (ii) gasoline with diesel fuel, or (iii) undyed diesel fuel with dyed kerosene, but  
2083 excluding fuel lost through personal negligence or theft;

2084 17. Used in operating or propelling vehicles used solely for racing other vehicles on a racetrack;

2085 18. Used in operating or propelling unlicensed highway vehicles and other unlicensed equipment  
2086 used exclusively for agricultural or horticultural purposes on lands owned or leased by the owner or  
2087 lessee of such vehicles and not operated on or over any highway for any purpose other than to move it  
2088 in the manner and for the purpose mentioned. The amount of refund shall be equal to the amount of the  
2089 taxes paid less one-half cent per gallon on such fuel so used which shall be paid by the Commissioner

into the state treasury to the credit of the Virginia Agricultural Foundation Fund;

19. Used in operating or propelling commercial watercraft. The amount of refund shall be equal to the amount of the taxes paid less one and one-half cents per gallon on such fuel so used which shall be paid by the Commissioner into the state treasury to be credited as provided in subsection D of § 58.1-2289. If any applicant so requests, the Commissioner shall pay into the state treasury, to the credit of the Game Protection Fund, the entire tax paid by such applicant for the purposes specified in subsection D of § 58.1-2289. If any applicant who is an operator of commercial watercraft so requests, the Commissioner shall pay into the state treasury, to the credit of the Marine Fishing Improvement Fund, the entire tax paid by such applicant for the purposes specified in § 28.2-208;

20. Used in operating stationary engines, or pumping or mixing equipment on a highway vehicle if the fuel used to operate such equipment is stored in an auxiliary tank separate from the fuel tank used to propel the highway vehicle, and the highway vehicle is mechanically incapable of self-propulsion while fuel is being used from the auxiliary tank; or

21. Used in operating or propelling recreational and pleasure watercraft.

B. 1. Any person purchasing fuel for consumption in a solid waste compacting or ready-mix concrete highway vehicle, or a bulk feed delivery truck, where the vehicle's equipment is mechanically or hydraulically driven by an internal combustion engine that propels the vehicle, is entitled to a refund in an amount equal to 35 percent of the tax paid on such fuel. For purposes of this section, a "bulk feed delivery truck" means bulk animal feed delivery trucks utilizing power take-off (PTO) driven auger or air feed discharge systems for off-road deliveries of animal feed.

2. Any person purchasing fuel for consumption in a vehicle designed or permanently adapted solely and exclusively for bulk spreading or spraying of agricultural liming materials, chemicals, or fertilizer, where the vehicle's equipment is mechanically or hydraulically driven by an internal combustion engine that propels the vehicle, is entitled to a refund in an amount equal to 55 percent of the tax paid on such fuel.

C. Any person purchasing any fuel on which tax imposed pursuant to this chapter has been paid may apply for a refund of the tax if such fuel was consumed by a highway vehicle used in operating an urban or suburban bus line or a taxicab service. This refund also applies to a common carrier of passengers which has been issued a certificate pursuant to § 46.2-2075 or 46.2-2099.4 providing regular route service over the highways of the Commonwealth. No refund shall be granted unless the majority of the passengers using such bus line, taxicab service or common carrier of passengers do so for travel of a distance of not more than 40 miles, one way, in a single day between their place of abode and their place of employment, shopping areas or schools.

If the applicant for a refund is a taxicab service, he shall hold a valid permit from the Department to engage in the business of a taxicab service. No applicant shall be denied a refund by reason of the fee arrangement between the holder of the permit and the driver or drivers, if all other conditions of this section have been met.

Under no circumstances shall a refund be granted more than once for the same fuel. The amount of refund under this subsection shall be equal to the amount of the taxes paid, except refunds granted on the tax paid on fuel used by a taxicab service shall be in an amount equal to the tax paid less \$0.01 per gallon on the fuel used.

Any refunds made under this subsection shall be deducted from the urban highway funds allocated to the highway construction district, pursuant to Article 1.1 (§ 33.1-23.01 et seq.) of Chapter 1 of Title 33.1, in which the recipient has its principal place of business.

Except as otherwise provided in this chapter, all provisions of law applicable to the refund of fuel taxes by the Commissioner generally shall apply to the refunds authorized by this subsection. Any county having withdrawn its roads from the secondary system of state highways under provisions of § 11 Chapter 415 of the Acts of 1932 shall receive its proportionate share of such special funds as is now provided by law with respect to other fuel tax receipts.

D. Any person purchasing fuel for consumption in a vehicle designed or permanently adapted solely and exclusively for bulk spreading or spraying of agricultural liming materials, chemicals, or fertilizer, where the vehicle's equipment is mechanically or hydraulically driven by an internal combustion engine that propels the vehicle, is entitled to a refund in an amount equal to 55 percent of the tax paid on such fuel.

E. Any person purchasing diesel fuel used in operating or propelling a passenger car, a pickup or panel truck, or a truck having a gross vehicle weight rating of 10,000 pounds or less is entitled to a refund of a portion of the taxes paid in an amount equal to the difference between the rate of tax on diesel fuel and the rate of tax on gasoline and gasohol pursuant to § 58.1-2217. For purposes of this subsection, "passenger car," "pickup or panel truck," and "truck" shall have the meaning given in § 46.2-100. Notwithstanding any other provision of law, diesel fuel used in a vehicle upon which the fuels tax has been refunded pursuant to this subsection shall be exempt from the tax imposed under



2151 *Chapter 6 (§ 58.1-600 et seq.).*

2152 *F. Refunds resulting from any fuel shipments diverted from Virginia shall be based on the amount of*  
2153 *tax paid for the fuel less discounts allowed by § 58.1-2233.*

2154 *F. G. Any person who is required to be licensed under this chapter and is applying for a refund shall*  
2155 *not be eligible for such refund if the applicant was not licensed at the time the refundable transaction*  
2156 *was conducted.*

2157 **§ 58.1-2289. Disposition of tax revenue generally.**

2158 *A. Unless otherwise provided in this section, all taxes and fees, including civil penalties, collected by*  
2159 *the Commissioner pursuant to this chapter, less a reasonable amount to be allocated for refunds, shall be*  
2160 *promptly paid into the state treasury and shall constitute special funds within the Commonwealth*  
2161 *Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for*  
2162 *use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds*  
2163 *shall accrue to these funds. Except as provided in § 33.1-23.03:1, no portion of the revenue derived*  
2164 *from taxes collected pursuant to §§ 58.1-2217, 58.1-2249 or 58.1-2701, and remaining after authorized*  
2165 *refunds for nonhighway use of fuel, shall be used for any purpose other than the construction,*  
2166 *reconstruction or maintenance of the roads and projects comprising the State Highway System, the*  
2167 *Interstate System and the secondary system of state highways and expenditures directly and necessarily*  
2168 *required for such purposes, including the retirement of revenue bonds.*

2169 *Revenues collected under this chapter may be also used for (i) contributions toward the construction,*  
2170 *reconstruction or maintenance of streets in cities and towns of such sums as may be provided by law*  
2171 *and (ii) expenditures for the operation and maintenance of the Department of Transportation, the*  
2172 *Department of Rail and Public Transportation, the Department of Aviation, the Virginia Port Authority,*  
2173 *and the Department of Motor Vehicles as may be provided by law.*

2174 *The Governor is hereby authorized to transfer out of such fund an amount necessary for the*  
2175 *inspection of gasoline and motor grease measuring and distributing equipment, and for the inspection*  
2176 *and analysis of gasoline for purity.*

2177 *B. Except as provided in subsection F, the* *The* *tax collected on each gallon of aviation fuel sold and*  
2178 *delivered or used in this Commonwealth, less refunds, shall be paid into a special fund of the state*  
2179 *treasury. Proceeds of this special fund within the Commonwealth Transportation Fund shall be disbursed*  
2180 *upon order of the Department of Aviation, on warrants of the Comptroller, to defray the cost of the*  
2181 *administration of the laws of this Commonwealth relating to aviation, for the construction, maintenance*  
2182 *and improvement of airports and landing fields to which the public now has or which it is proposed*  
2183 *shall have access, and for the promotion of aviation in the interest of operators and the public generally.*

2184 *C. One-half cent of the tax collected on each gallon of fuel on which a refund has been paid for*  
2185 *gasoline, gasohol, diesel fuel, blended fuel, or alternative fuel, for fuel consumed in tractors and*  
2186 *unlicensed equipment used for agricultural purposes shall be paid into a special fund of the state*  
2187 *treasury, known as the Virginia Agricultural Foundation Fund, to be disbursed to make certain refunds*  
2188 *and defray the costs of the research and educational phases of the agricultural program, including*  
2189 *supplemental salary payments to certain employees at Virginia Polytechnic Institute and State University,*  
2190 *the Department of Agriculture and Consumer Services and the Virginia Truck and Ornamentals Research*  
2191 *Station, including reasonable expenses of the Virginia Agricultural Council.*

2192 *D. One and one-half cents of the tax collected on each gallon of fuel used to propel a commercial*  
2193 *watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of*  
2194 *the state treasury to be made available to the Board of Game and Inland Fisheries until expended for the*  
2195 *purposes provided generally in subsection C of § 29.1-701, including acquisition, construction,*  
2196 *improvement and maintenance of public boating access areas on the public waters of this*  
2197 *Commonwealth and for other activities and purposes of direct benefit and interest to the boating public*  
2198 *and for no other purpose. However, one and one-half cents per gallon on fuel used by commercial*  
2199 *fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be*  
2200 *used for the construction, repair, improvement and maintenance of the public docks of this*  
2201 *Commonwealth used by said commercial watercraft. Any expenditures for the acquisition, construction,*  
2202 *improvement and maintenance of the public docks shall be made according to a plan developed by the*  
2203 *Virginia Marine Resources Commission.*

2204 *From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for*  
2205 *the propelling of watercraft, after deduction for lawful refunds, there shall be paid into the state treasury*  
2206 *for use by the Marine Resources Commission, the Virginia Soil and Water Conservation Board, the*  
2207 *State Water Control Board, and the Commonwealth Transportation Board to (i) improve the public*  
2208 *docks as specified in this section, (ii) improve commercial and sports fisheries in Virginia's tidal waters,*  
2209 *(iii) make environmental improvements including, without limitation, fisheries management and habitat*  
2210 *enhancement in the Chesapeake and its tributaries, and (iv) further the purposes set forth in § 33.1-223,*  
2211 *a sum as established by the General Assembly.*

2212 *E. Notwithstanding other provisions of this section, there shall be transferred from moneys collected*

pursuant to this section 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, an amount equal to one percent of a sum to be calculated as follows: the tax revenues collected pursuant to this chapter, at the tax rates in effect on December 31, 1986, less refunds authorized by this chapter and less taxes collected for aviation fuels.

F. The additional revenues, less any additional refunds authorized, generated by increases in the rates of taxes under this chapter pursuant to enactments of the 2007 Session of the General Assembly shall be collected pursuant to Article 4 of this chapter and deposited into the Highway Maintenance and Operating Fund.

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, (ii) 15 percent shall be deposited into the Transportation Trust Fund, (iii) four percent shall be deposited into the Priority Transportation Fund, and (iv) 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.

§ 58.1-2290.1. Tax on fuel in inventory.

A. In addition to any other tax levied under this chapter, there is hereby levied a tax on taxable gasoline, gasohol, and diesel fuel held in storage by a licensed distributor as of the close of the business day preceding July 1, 2013. For the purposes of this section, "close of the business day" means the time at which the last transaction has occurred for that day. The tax shall be payable by the licensed distributor. The amount of the tax liability shall be determined separately for gasoline and gasohol and for diesel fuel and shall be calculated as the difference between (i) the tax rate specified for the type of fuel under § 58.1-2217 and (ii) the tax rate as specified for that type of fuel under § 58.1-2217 as it was in effect on June 30, 2013, multiplied by the number of gallons of that type of fuel in storage as of the close of the business day preceding July 1, 2013.

B. A licensed distributor in possession of taxable gasoline, gasohol, or diesel fuel in storage as of the close of the business day preceding July 1, 2013, shall take an inventory at the close of that day to determine the number of gallons in storage for each type of fuel and shall report this inventory, on forms provided by the Commissioner, no later than January 1, 2014. In addition:

1. If the net amount of the tax liability for all fuel types is a positive number, the distributor shall remit that amount to the Department no later than January 1, 2014.

2. If the net amount of the tax liability for all fuel types is a negative number, the distributor may apply to the Department for a refund of that amount no later than January 1, 2014. However, the Department shall not issue any such refund prior to September 1, 2013.

C. In determining the amount of the tax liability under this section, the licensed distributor shall exclude the amount of taxable fuel in dead storage. For the purposes of this section, "dead storage" means the amount of taxable fuel that will not be pumped out of a storage tank because that fuel is below the mouth of the draw pipe. The distributor may assume that the amount of fuel in dead storage is 200 gallons for a draw tank with a capacity of less than 10,000 gallons and 400 gallons for a tank with a capacity of 10,000 gallons or more. Alternatively, the amount of fuel in dead storage in a tank may be computed using the manufacturer's conversion table for the tank and the number of inches between the bottom of the tank and the mouth of the draw pipe. If the conversion table method is used to compute the amount of fuel in dead storage, the distance between the bottom of the tank and the mouth of the draw pipe will be assumed to be six inches, unless otherwise established.

§ 58.1-2295. (Effective July 1, 2013) 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 § 15.2-4502 or (ii) any transportation district that is subject to subsection C of § 15.2-4515 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

2274 (i). *In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective beginning*  
2275 *on the July 1 immediately following the calendar year in which all of the criteria have been met.*

2276 B. The tax shall be imposed at a rate of 2.1 percent of the sales price charged by a distributor for  
2277 fuels sold to a retail dealer for retail sale in any such county or city. In any such sale to a retail dealer  
2278 in which the distributor and the retail dealer are the same person, the sales price charged by the  
2279 distributor shall be the cost price to the distributor of the fuel.

2280 The tax levied under this section shall be imposed at the time of sale by the distributor to the retail  
2281 dealer.

2282 B C. The tax imposed by this section shall be paid by the distributor, but the distributor shall  
2283 separately state the amount of the tax and add such tax to the sales price or charge. Thereafter, such tax  
2284 shall be a debt from the retail dealer to the distributor until paid and shall be recoverable at law in the  
2285 same manner as other debts. No action at law or suit in equity under this chapter shall be maintained in  
2286 the Commonwealth by any distributor who is not registered under § 58.1-2299.2 or is delinquent in the  
2287 payment of taxes imposed under this chapter.

2288 **§ 58.1-2299.20. (Effective July 1, 2013) Disposition of tax revenues.**

2289 A. All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the  
2290 sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in subdivision A  
2291 1 of § 58.1-2295, after subtraction of the direct costs of administration by the Department, shall be  
2292 deposited in a special fund entitled the "Special Fund Account of the Transportation District of ..... "  
2293 The amounts deposited in the special fund shall be distributed monthly to the applicable transportation  
2294 district commission of which the county or city is a member to be applied to the operating deficit,  
2295 capital, and debt service of the mass transit system of such district or, in the case of a transportation  
2296 district subject to the provisions of subsection C of § 15.2-4515, to be applied to and expended for any  
2297 transportation purpose of such district. In the case of a jurisdiction which, after July 1, 1989, joins a  
2298 transportation district which was established on or before January 1, 1986, and is also subject to  
2299 subsection C of § 15.2-4515, the funds collected from that jurisdiction shall be applied to and expended  
2300 for any transportation purpose of such jurisdiction. The direct costs of administration shall be credited to  
2301 the funds appropriated to the Department.

2302 B. All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the  
2303 sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in subdivision A  
2304 2 of § 58.1-2295, after subtraction of the direct costs of administration by the Department, shall be  
2305 deposited into special funds established by law. In the case of Planning District 23, the revenue  
2306 generated and collected therein shall be deposited into the fund established in § 33.1-23.5:3. For  
2307 additional Planning Districts that may become subject to this section, funds shall be established by  
2308 appropriate legislation. The direct cost of administration shall be credited to the funds appropriated to  
2309 the Department.

2310 **§ 58.1-2401. Definitions.**

2311 As used in this chapter, unless the context clearly shows otherwise, the term or phrase:

2312 "Commissioner" shall mean the Commissioner of the Department of Motor Vehicles of the  
2313 Commonwealth.

2314 "Department" shall mean the Department of Motor Vehicles of this Commonwealth, acting through  
2315 its duly authorized officers and agents.

2316 "Mobile office" shall mean an industrialized building unit not subject to the federal regulation, which  
2317 may be constructed on a chassis for the purpose of towing to the point of use and designed to be used  
2318 with or without a permanent foundation, for commercial use and not for residential use; or two or more  
2319 such units separately towable, but designed to be joined together at the point of use to form a single  
2320 commercial structure, and which may be designed for removal to, and installation or erection on other  
2321 sites.

2322 "Motor vehicle" shall mean every vehicle, except for mobile office as herein defined, which is  
2323 self-propelled or designed for self-propulsion and every vehicle drawn by or designed to be drawn by a  
2324 motor vehicle, including manufactured homes as defined in § 46.2-100 and every device in, upon and by  
2325 which any person or property is, or can be, transported or drawn upon a highway, but excepting devices  
2326 moved by human or animal power, devices used exclusively upon stationary rails or tracks and vehicles,  
2327 other than manufactured homes, used in this Commonwealth but not required to be licensed by the  
2328 Commonwealth.

2329 "Sale" shall mean any transfer of ownership or possession, by exchange or barter, conditional or  
2330 otherwise, in any manner or by any means whatsoever, of a motor vehicle. The term shall also include a  
2331 transaction whereby possession is transferred but title is retained by the seller as security. The term shall  
2332 not include a transfer of ownership or possession made to secure payment of an obligation, nor shall it  
2333 include a refund for, or replacement of, a motor vehicle of equivalent or lesser value pursuant to the  
2334 Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.). Where the replacement motor  
2335 vehicle is of greater value than the motor vehicle replaced, only the difference in value shall constitute a

sale.

"Sale price" shall mean the total price paid for a motor vehicle and all attachments thereon and accessories thereto, as determined by the Commissioner, exclusive of any federal manufacturers' excise tax, without any allowance or deduction for trade-ins or unpaid liens or encumbrances. However, "sale price" shall not include (i) *any manufacturer rebate or manufacturer incentive payment applied to the transaction by the customer or dealer whether as a reduction in the sales price or as payment for the vehicle and* (ii) the cost of controls, lifts, automatic transmission, power steering, power brakes or any other equipment installed in or added to a motor vehicle which is required by law or regulation as a condition for operation of a motor vehicle by a handicapped person.

**§ 58.1-2402. Levy.**

A. There is hereby levied, in addition to all other taxes and fees of every kind now imposed by law, a tax upon the sale or use of motor vehicles in Virginia, other than a sale to or use by a person for rental as an established business or part of an established business or incidental or germane to such business.

The amount of the tax to be collected shall be determined by the Commissioner by the application of the following rates against the gross sales price:

1. Three percent *through midnight on June 30, 2013, four percent (4.0%) beginning July 1, 2013, through midnight on June 30, 2014, four and five-hundredths of a percent (4.05%) beginning July 1, 2014, through midnight on June 30, 2015, four and one tenth of a percent (4.1%) beginning July 1, 2015, through midnight on June 30, 2016, and four and fifteen-hundredths (4.15%) of a percent beginning on and after July 1, 2016,* of the sale price of each motor vehicle sold in Virginia. If such motor vehicle is a manufactured home as defined in § 36-85.3, the tax shall be three percent of the sale price of each such manufactured home sold in the Commonwealth; if such vehicle is a mobile office as defined in § 58.1-2401, the tax shall be two percent of the sale price of each mobile office sold in the Commonwealth; if such vehicle has a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more and is neither (i) a manufactured home as defined in § 36-85.3, (ii) a mobile office as defined in § 58.1-2401, (iii) a trailer or semitrailer as severally defined in § 46.2-100 that is not designed or used to carry property, nor (iv) a vehicle registered under § 46.2-700, the tax shall be zero percent of the sale price of each such vehicle sold in the Commonwealth.

2. Three percent *through midnight on June 30, 2013, four percent (4.0%) beginning July 1, 2013, through midnight on June 30, 2014, four and five-hundredths of a percent (4.05%) beginning July 1, 2014, through midnight on June 30, 2015, four and one tenth of a percent (4.1%) beginning July 1, 2015, through midnight on June 30, 2016, and four and fifteen-hundredths (4.15%) of a percent beginning on and after July 1, 2016,* of the sale price of each motor vehicle, ~~or three percent of the sale price of each manufactured home as defined in § 36-85.3, or two percent of the sale price of each mobile office as defined in § 58.1-2401,~~ not sold in Virginia but used or stored for use in the Commonwealth; *or three percent of the sale price of each manufactured home as defined in § 36-85.3, or two percent of the sale price of each mobile office as defined in § 58.1-2401, not sold in Virginia but used or stored for use in this Commonwealth.* If such vehicle has a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more and is neither (i) a manufactured home as defined in § 36-85.3, (ii) a mobile office as defined in § 58.1-2401, (iii) a trailer or semitrailer as severally defined in § 46.2-100 that is not designed or used to carry property, nor (iv) a vehicle registered under § 46.2-700, the tax shall be zero percent of the sale price of each such vehicle not sold in the Commonwealth but used or stored for use in the Commonwealth. When any motor vehicle or manufactured home not sold in the Commonwealth is first used or stored for use in Virginia six months or more after its acquisition, the tax shall be based on its current market value.

3. The minimum tax levied on the sale of any motor vehicle in the Commonwealth that is subject to taxation at a rate exceeding zero percent shall be ~~\$35~~ \$75, except as provided by those exemptions defined in § 58.1-2403.

4 through 7. [Repealed.]

B. A transaction taxed under subdivision A 1 shall not also be taxed under subdivision A 2, nor shall the same transaction be taxed more than once under either subdivision.

C. Any motor vehicle, trailer or semitrailer exempt from this tax under subdivision 1 or 2 of § 58.1-2403 shall be subject to the tax, based on the current market value when such vehicle is no longer owned or used by the United States government or any governmental agency, or the Commonwealth of Virginia or any political subdivision thereof, unless such vehicle is then rented, in which case the tax imposed by § 58.1-1736 shall apply, subject to the exemptions provided in § 58.1-1737. Further, any motor vehicle, trailer or semitrailer exempt from the tax imposed by this chapter under subdivision 11 of § 58.1-2403 or §§ 46.2-663 through 46.2-674 shall be subject to the tax, based on the current market value, when such vehicle is subsequently licensed to operate on the highways of the Commonwealth.

2397 D. Any person who with intent to evade or to aid another person to evade the tax provided for  
 2398 herein, falsely states the selling price of a vehicle on a bill of sale, assignment of title, application for  
 2399 title, or any other document or paper submitted to the Commissioner pursuant to any provisions of this  
 2400 title or Title 46.2, shall be guilty of a Class 3 misdemeanor.

2401 E. Effective January 1, 1997, any amount designated as a "processing fee" and any amount charged  
 2402 by a dealer for processing a transaction, which is required to be included on a buyer's order pursuant to  
 2403 subdivision A 10 of § 46.2-1530, shall be subject to the tax.

2404 **§ 58.1-2425. Disposition of revenues.**

2405 A. Funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury.  
 2406 Except as otherwise provided in this section, these funds shall constitute special funds within the  
 2407 Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall  
 2408 be available for use in subsequent years for the purposes set forth in this chapter, and any interest  
 2409 income on such funds shall accrue to these funds. The revenue so derived, after refunds have been  
 2410 deducted, is hereby allocated for the construction, reconstruction and maintenance of highways and the  
 2411 regulation of traffic thereon and for no other purpose. However, (i) all funds collected pursuant to the  
 2412 provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the  
 2413 city, town, or county wherein such manufactured home is to be situated as a dwelling; ~~and~~ (ii) effective  
 2414 January 1, 1987, an amount equivalent to the net additional revenues from the sales and use tax on  
 2415 motor vehicles generated by enactments of the 1986 Special Session of the Virginia General Assembly  
 2416 which amended §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402, and this section shall be distributed to and  
 2417 paid into the Transportation Trust Fund, a special fund within the Commonwealth Transportation Fund,  
 2418 and are hereby appropriated to the Commonwealth Transportation Board for transportation needs; *and*  
 2419 *(iii) the net additional revenues generated by increases in the rates of taxes under subdivisions A 1 and*  
 2420 *A 2 of § 58.1-2402 and generated by the increase in the minimum tax under subdivision A 3 of*  
 2421 *§ 58.1-2402 pursuant to enactments of a Session of the General Assembly held in 2013 shall be*  
 2422 *deposited by the Comptroller into the Highway Maintenance and Operating Fund.*

2423 B. As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation  
 2424 Trust Fund pursuant to clause (ii) of subsection A ~~of this section~~, an aggregate of 4.2 percent shall be  
 2425 set aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the  
 2426 Commonwealth Airport Fund; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7  
 2427 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit  
 2428 Fund.

2429 **§ 58.1-2701. Amount of tax.**

2430 A. Except as provided in subsection B, every motor carrier shall pay a road tax ~~equivalent to \$0.24~~  
 2431 ~~per gallon equivalent to the cents per gallon credit for diesel fuel as determined under subsection A of~~  
 2432 ~~§ 58.1-2706 for the relevant period plus an additional \$0.035 per gallon~~ calculated on the amount of  
 2433 motor fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of ~~sixty~~ 60  
 2434 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute), used in its operations within  
 2435 the Commonwealth.

2436 The tax imposed by this chapter shall be in addition to all other taxes of whatever character imposed  
 2437 on a motor carrier by any other provision of law.

2438 B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles  
 2439 that are not registered under the International Registration Plan shall pay a fee of \$150 per year for each  
 2440 qualified highway vehicle regardless of whether such vehicle will be included on the motor carrier's  
 2441 IFTA return. The fee is due and payable when the vehicle registration fees are paid pursuant to the  
 2442 provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2.

2443 If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due  
 2444 at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration  
 2445 expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the  
 2446 registration fee paid is authorized by law.

2447 C. All taxes and fees paid under the provisions of this chapter shall be credited to the Highway  
 2448 Maintenance and Operating Fund, a special fund within the Commonwealth Transportation Fund.

2449 **§ 58.1-2706. Credit for payment of motor fuel, diesel fuel or liquefied gases tax.**

2450 A. Every motor carrier subject to the road tax shall be entitled to a credit on such tax ~~equivalent to~~  
 2451 ~~seventeen and one-half cents per gallon on all on every gallon of~~ motor fuel, diesel fuel and liquefied  
 2452 gases purchased by such carrier within the Commonwealth for use in its operations either within or  
 2453 without the Commonwealth and upon which the motor fuel, diesel fuel or liquefied gases tax imposed  
 2454 by the laws of the Commonwealth has been paid by such carrier. Evidence of the payment of such tax  
 2455 in such form as may be required by, or is satisfactory to, the Department shall be furnished by each  
 2456 carrier claiming the credit herein allowed. *The credit for diesel fuel shall be at a cents per gallon rate*  
 2457 *equivalent to the tax imposed under subsection B of § 58.1-2217 for the relevant period as converted by*  
 2458 *the Commissioner to a cents per gallon tax for purposes of this credit. The credit for all other motor*

fuels and liquefied gases shall be at a cents per gallon rate equivalent to the tax imposed under subsection A of § 58.1-2217 for the relevant period as converted by the Commissioner to a cents per gallon tax for purposes of this credit.

B. When the amount of the credit to which any motor carrier is entitled for any quarter exceeds the amount of the tax for which such carrier is liable for the same quarter, the excess may: (i) be allowed as a credit on the tax for which such carrier would be otherwise liable for any of the eight succeeding quarters or (ii) be refunded, upon application, duly verified and presented and supported by such evidence as may be satisfactory to the Department.

C. The Department may allow a refund upon receipt of proper application and review. It shall be at the discretion of the Department to determine whether an audit is required.

D. The refund may be allowed without a formal hearing if the amount of refund is agreed to by the applicant. Otherwise, a formal hearing on the application shall be held by the Department after notice of not less than ~~ten~~ 10 days to the applicant and the Attorney General.

E. Whenever any refund is ordered it shall be paid out of the Highway Maintenance and Construction Fund.

F. Whenever a person operating under lease to a motor carrier to perform transport services on behalf of the carrier purchases motor fuel, diesel fuel or liquefied gases relating to such services, such payments or purchases may, at the discretion of the Department, be considered payment or purchases by the carrier.

**2. That § 58.1-2217 of the Code of Virginia is amended and reenacted effective January 1, 2015, if the United States Congress has not enacted legislation granting the Commonwealth the authority to compel the remote sellers to collect state and local retail sales and use tax for sales made in the Commonwealth by such date, as follows:**

**§ 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.*

B. ~~(Contingent expiration date)~~ 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.*

B. ~~(Contingent effective date)~~ There is hereby levied a tax at the rate of sixteen cents per gallon on diesel fuel.

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 of ~~seventeen and one-half cents per gallon~~ levied on gasoline and gasohol, along with any penalties and interest that may accrue.

E. ~~(Contingent expiration date)~~ 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

2520 this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation jet  
2521 fuel taxable under this chapter shall be liable for the tax imposed at the rate of seventeen and one-half  
2522 cents per gallon levied on diesel fuel, along with any penalties and interest that may accrue.

2523 E. (Contingent effective date) There is hereby levied a tax at the rate of five cents per gallon on  
2524 aviation jet fuel purchased or acquired for use by a user of aviation fuel other than an aviation  
2525 consumer. There is hereby levied a tax at the rate of five cents per gallon upon the first 100,000 gallons  
2526 of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by any aviation  
2527 consumer in any fiscal year. There is hereby levied a tax at the rate of one-half cent per gallon on all  
2528 aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by an aviation  
2529 consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not licensed under  
2530 this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation jet  
2531 fuel taxable under this chapter shall be liable for the tax imposed at the rate of sixteen cents per gallon,  
2532 along with any penalties and interest that may accrue.

2533 F. In accordance with § 62.1-44.34:13, a storage tank fee is imposed on each gallon of gasoline,  
2534 aviation gasoline, diesel fuel (including dyed diesel fuel), blended fuel, and heating oil sold and  
2535 delivered or used in the Commonwealth.

2536 3. That if the United States Congress has not enacted legislation granting the Commonwealth the  
2537 authority to compel remote sellers to collect state and local retail sales and use tax for sales made  
2538 in the Commonwealth by January 1, 2015, the amount of general funds transferred to the  
2539 Highway Maintenance and Operating Fund pursuant to subsection G of § 58.1-638 as added by  
2540 this act shall not be increased after fiscal year 2015.

2541 4. That Article 22 (§§ 58.1-540 through 58.1-549) of Chapter 3 of Title 58.1 of the Code of  
2542 Virginia, §§ 58.1-609.13, 58.1-2289, as it may become effective, 58.1-2290, and 58.1-2701, as it may  
2543 become effective, of the Code of Virginia and the second enactment of Chapter 822 of the Acts of  
2544 Assembly of 2009, as amended by Chapter 535 of the Acts of Assembly of 2012, are repealed.

2545 5. That in computing the amount of sales and use tax revenue paid under subdivision F 2 and  
2546 subsections G and H of § 58.1-638 as added by this act and § 58.1-638.3 as added by this act, the  
2547 amount of such revenue attributable to sales and use tax on food for human consumption, as  
2548 defined in § 58.1-611.1 of the Code of Virginia, shall be excluded.

2549 6. That \$100 million of the increased revenues provided to the Highway Maintenance and  
2550 Operating Fund pursuant to this act in fiscal years 2014, 2015, and 2016 shall be dedicated to  
2551 Phase 2 of the Dulles Corridor Metrorail Extension Project, provided, however, that the  
2552 Metropolitan Washington Airports Authority (MWAA) Board of Directors first address all  
2553 recommendations cited in the Office of the Inspector General of the U.S. Department of  
2554 Transportation's Report on MWAA Governance and the accountability officer appointed by the  
2555 U.S. Secretary of Transportation determines that such recommendations have been addressed.  
2556 Notwithstanding the foregoing provisions of this enactment, in the event that all conditions for  
2557 dedication of funds are satisfied, the Commonwealth Transportation Board may provide funding  
2558 from other available revenue sources to satisfy the requirements of this provision in order to  
2559 maximize the use of increased revenues provided under this act.

2560 7. That the provisions of this act amending §§ 58.1-601, 58.1-602, 58.1-605, 58.1-606, 58.1-612, as it  
2561 is currently effective and as it may become effective, 58.1-615, 58.1-625, as it is currently effective  
2562 and as it may become effective, 58.1-635, 58.1-638.2, and subdivision 5 of § 58.1-604, and repealing  
2563 § 58.1-609.13, shall not become effective unless the federal government enacts legislation that  
2564 grants states that meet minimum simplification requirements specified in such legislation the  
2565 authority to compel remote retailers to collect sales and use tax on sales made into the respective  
2566 state. If the federal government enacts such legislation, then such amendments and the repeal of  
2567 § 58.1-609.13 shall become effective 30 days after the effective date of the federal legislation.

2568 8. That the Northern Virginia Transportation Authority and the counties and cities embraced by  
2569 the Authority shall work cooperatively with towns with a population greater than 3,500 located  
2570 within such counties for purposes of implementing the provisions of this act and to ensure that  
2571 such towns receive their respective share of the revenues pursuant to subdivision B 1 of  
2572 § 15.2-4838.1.

2573 9. That the Texas Transportation Institute's annual report on highway congestion ranks the  
2574 Northern Virginia/Washington, D.C. area as the worst area for traffic congestion in the nation,  
2575 and the Hampton Roads region as the twentieth most congested area of the 101 areas studies. Such  
2576 congestion has an average commuter cost of nearly \$1,400 in Northern Virginia and \$877 per  
2577 commuter in Hampton Roads. Such congestion negatively impacts Virginia's economic prosperity,  
2578 strategic military connectivity, emergency preparedness, and environmental quality. Regions with  
2579 populations in excess of 1.5 million citizens and 1.2 million registered vehicles are prone to greater  
2580 levels of congestion and growing transit needs. Therefore, the General Assembly finds that  
2581 transportation construction and maintenance in the Northern Virginia and Hampton Roads



regions are high priorities, and that as other regions of the Commonwealth continue to grow, the same priority shall be given.

10. That each county or city located in Planning District 8 or Planning District 23 as of January 1, 2013, shall expend or disburse for transportation purposes each year an amount that is at least equal to the average annual amount expended or disbursed for transportation purposes by the county or city, excluding bond proceeds or debt service payments and federal or state grants, between July 1, 2010, and June 30, 2013. Each county or city located in any other Planning District that becomes subject to the state taxes or fees imposed solely in Planning Districts pursuant to this act shall expend or disburse for transportation purposes each year an amount that is at least equal to the average annual amount expended or disbursed for transportation purposes by the county or city, excluding bond proceeds or debt service payments and federal or state grants, during the 36-month period immediately prior to the effective date of the imposition of such state taxes or fees in the Planning District. In the event that any such county or city does not expend or disburse such an amount, that county or city shall not be the direct beneficiary of any of the revenues generated by the state taxes or fees imposed solely in Planning Districts pursuant to this act in the immediately succeeding year.

11. That no tolls shall be imposed or collected on Interstate 95 south of Fredericksburg pursuant to the Interstate System Reconstruction and Rehabilitation Pilot Program without the prior approval of the General Assembly.

12. That Chapter 896 of the Acts of Assembly of 2007 is amended by adding a twenty-fourth enactment as follows:

24. That the provisions of the twenty-second enactment of this act shall not apply to any revenues generated pursuant to subsections B and E of § 58.1-2217, subsection A of § 58.1-2249, or § 58.1-2289 or 58.1-2701 of the Code of Virginia.

13. That beginning in fiscal year 2020, \$20 million from the highway construction share of the Transportation Trust Fund shall be deposited into the Route 58 Corridor Development Fund.

14. That the provisions of this act that generate additional revenue through state taxes or fees for transportation (i) throughout the Commonwealth and in Planning District 8 and Planning District 23 or (ii) in any other Planning District that becomes subject to the state taxes or fees imposed solely in Planning Districts pursuant to this act shall expire on December 31 of any year in which the General Assembly appropriates any of such additional revenues for any non-transportation-related purpose or transfers any of such additional revenues that are to be deposited into the Commonwealth Transportation Fund or any subfund thereof pursuant to general law for a non-transportation-related purpose. In the event a local government of any county or city wherein the additional taxes and fees are levied appropriates or allocates any of such additional revenues to a non-transportation purpose, such locality shall not be the direct beneficiary of any of the revenues generated by the taxes or fees in the year immediately succeeding the year in which revenues were appropriated or allocated to a non-transportation purpose.

15. That if the federal government enacts legislation on or after January 1, 2015, that grants states that meet minimum simplification requirements specified in such legislation the authority to compel remote retailers to collect sales and use tax on sales made into the respective state, then the provisions of § 58.1-2217 shall revert to the provisions of those statutes as set forth in the first enactment on the January 1 immediately following the calendar year in which such federal legislation was enacted.

16. That the Department of Taxation shall develop and publish guidelines implementing the provisions of this act relating to the state Retail Sales and Use tax increase, the regional state sales and use taxes, and the regional state Transient Occupancy Tax and shall update such guidelines thereafter as deemed necessary by the Tax Commissioner. The development and publication of such guidelines and rules shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

17. That the Virginia Department of Transportation, the Department of the Treasury, the Department of Taxation, and any other department or group necessary shall conduct a review of the implementation of the regional taxing authorities as provided by this act. The purpose of such review shall be to determine what additional powers and authorities regional transportation authorities, commissions, etc., may need to ensure the proper utilization of the regional revenues. Such review shall include whether bonding authority should be authorized if a local transportation entity does not already have such authority. The departments shall issue and report and make recommendations, if any are necessary, to the General Assembly no later than December 1, 2013.

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.





AGENDA ITEM #5

**TO:** Chairman McKay and NVTC Commissioners  
**FROM:** Claire Gron  
**DATE:** March 28, 2013  
**SUBJECT:** WMATA Items.

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A. WMATA Board Members' Report.

NVTC's WMATA Board members will have the opportunity to bring relevant matters to the attention of the commission.

B. Vital Signs/WMATA Dashboard.

Each month staff will provide copies of WMATA's Dashboard performance report and every quarter staff will include a summary of WMATA's Vital Signs report. For persons wishing to learn more about the performance measures used by WMATA including why they were chosen, please go to:

[http://www.wmata.com/about\\_metro/board\\_of\\_directors/board\\_docs/091312\\_4A\\_VitalSigns.pdf](http://www.wmata.com/about_metro/board_of_directors/board_docs/091312_4A_VitalSigns.pdf)

The most recent Vital Signs document (CY2012 year-end) can be seen at:

[http://wmata.com/about\\_metro/docs/Vital\\_Signs\\_CY%202012%20Year%20End.pdf](http://wmata.com/about_metro/docs/Vital_Signs_CY%202012%20Year%20End.pdf)



# OPERATING BUDGET REPORT

2nd Quarter FY2013

## OPERATING BUDGET (\$ in Millions)

Q2	Q2-FY2012	Q2-FY2013		Variance FY13	
	Actual	Actual	Budget	\$	Percent
Revenue	\$ 61.0	\$ 59.3	\$ 63.5	\$ (4.2)	-6.6%
Expense	\$ 118.7	\$ 127.9	\$ 129.4	\$ 1.4	1.1%
Subsidy	\$ 57.7	\$ 68.6	\$ 65.9	\$ (2.7)	-4.1%
Cost Recovery	51.4%	46.4%	49.1%		

YTD	FY2012	FY2013		Variance FY13	
	Actual	Actual	Budget	\$	Percent
Revenue	\$ 397.1	\$ 412.4	\$ 432.6	\$ (20.3)	-4.7%
Expense	\$ 710.8	\$ 756.2	\$ 781.4	\$ 25.2	3.2%
Subsidy	\$ 313.7	\$ 343.8	\$ 348.8	\$ 5.0	1.4%
Cost Recovery	55.9%	54.5%	55.4%		

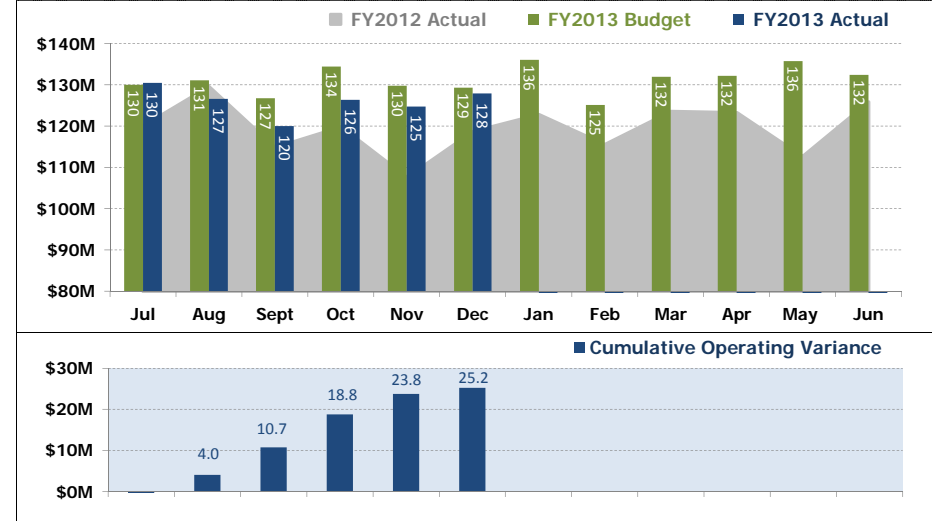
## OPERATING PROGRAM HIGHLIGHTS

As of December YTD, Metro is **favorable to budget** by \$5.0M, or 1.4%.

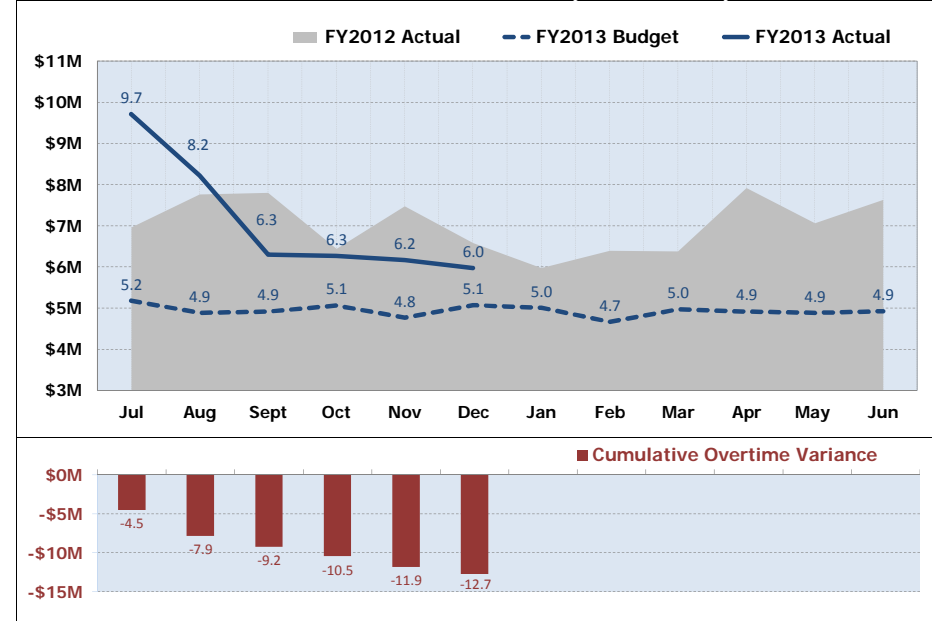
Year-to-date expenditures \$25.2M or 3.2% favorable to budget.

- Salary & wages below budget by \$16.0M due to vacancies. BUS and Accounting completed entries in December to capitalize BUS labor.
- Overtime is (\$12.7M) over budget due to CMNT 2K, 3K and 5K maintenance, HVAC overhauls, midlife door inspections and friction brake maintenance, vacancy coverage, leave coverage, special events.
- Fringe benefits is \$4.5M under budget due to lower than projected pension costs (\$3.3 million), lower than expected health claims costs, surpluses in FICA Expense, clothing, tools, and allowances (\$1.2 million).
- Materials and Supply expenses are (\$5.8M) unfavorable mostly due to overruns in Bus material usage (\$3.6M unfavorable) and higher than expected expenses in CMNT 2K, 3K and 5K maintenance. BUS and Accounting completed entries in December to capitalize BUS parts.
- Service expenses were \$17.4M favorable due to savings in paratransit expenses, late PLNT, SMNT, CMNT and ELES contract awards, timing of various JOC contracts and Labor Relations expenses for arbitration negotiations and timing of Financial, IT and BUS services.
- Propulsion/Diesel and Utilities were favorable to budget by \$7.9M due to lower than projected power consumption and favorable diesel rates in Metro hedges.

## OPERATING EXPENDITURES (\$ in Millions)



## YTD OVERTIME BUDGET VS ACTUAL (\$ in Millions)





# REVENUE AND RIDERSHIP REPORT

2nd Quarter FY2013

## RIDERSHIP (trips in Thousands)

Q2	Q2-FY2012	Q2-FY2013		Variance FY13	
	Actual	Actual	Budget	Prior Year	Budget
Metrorail	16,427	14,619	15,674	-11.0%	-6.7%
Metrobus	10,426	9,254	9,752	-11.2%	-5.1%
MetroAccess	169	159	176	-6.3%	-9.7%
System Total	27,023	24,032	25,602	-11.1%	-6.1%

YTD	FY2012	FY2013		Variance FY13	
	Actual	Actual	Budget	Prior Year	Budget
Metrorail	107,968	101,912	108,315	-5.6%	-5.9%
Metrobus	65,827	63,838	65,212	-3.0%	-2.1%
MetroAccess	1,030	997	1,114	-3.2%	-10.5%
System Total	174,824	166,747	174,641	-4.6%	-4.5%

## REVENUE AND RIDERSHIP HIGHLIGHTS

### Year-to-date Revenue

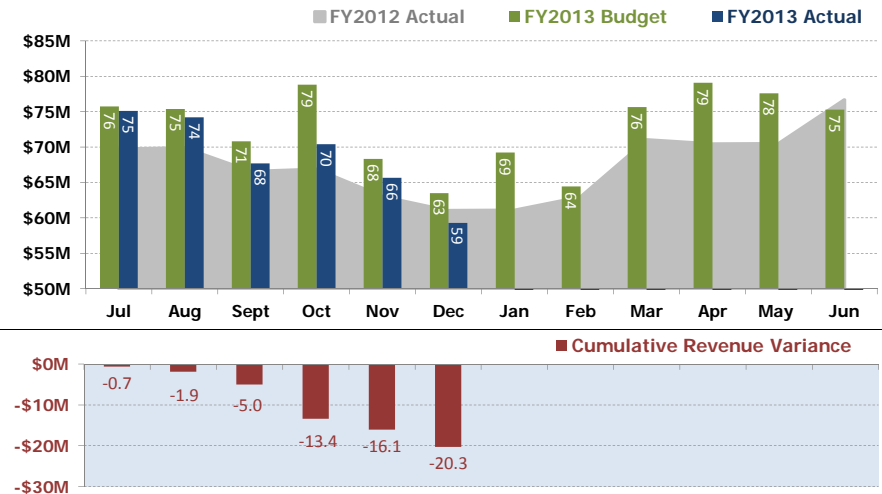
Total operating revenue is (\$20.3M) below budget, or -4.7%. Passenger revenues plus parking is (\$19.0M) below budget, while non-transit revenue is (\$1.2M) below budget.

- **Rail passenger fare revenue** is (\$15.2M) below budget YTD as a result of lower rail ridership; average fare YTD is \$2.88, which reflects the impact of the July fare increase and is just slightly above the budgeted average fare for FY13 of \$2.87. The impact of Hurricane Sandy in October and the unanticipated federal Christmas Eve holiday is approximately \$5 million in lost rail revenue.
- **Bus passenger revenue** is (\$2.3M) below budget YTD. In addition to the Hurricane Sandy shutdown and Christmas Eve holiday (estimated impact of \$1 million), it has been determined that a Cubic farebox software error has been causing an undercount of bus ridership and revenue beginning in September 2012. When corrected, bus ridership and revenue YTD should be at or near budget. Average fare YTD is \$1.06, slightly below the budgeted average fare for FY13 of \$1.07.
- **MetroAccess revenue** is at budget YTD; although ridership is below budget, actual average fare is higher at \$3.91 versus \$3.50 budget.
- **Parking revenue** is below budget YTD by (\$1.5M) or -6.4%, slightly greater than the overall reduction in rail ridership.
- **Other revenue** is (\$1.2M) below budget, with positive variances in advertising revenue outweighed by negative variances in joint development and other revenues.

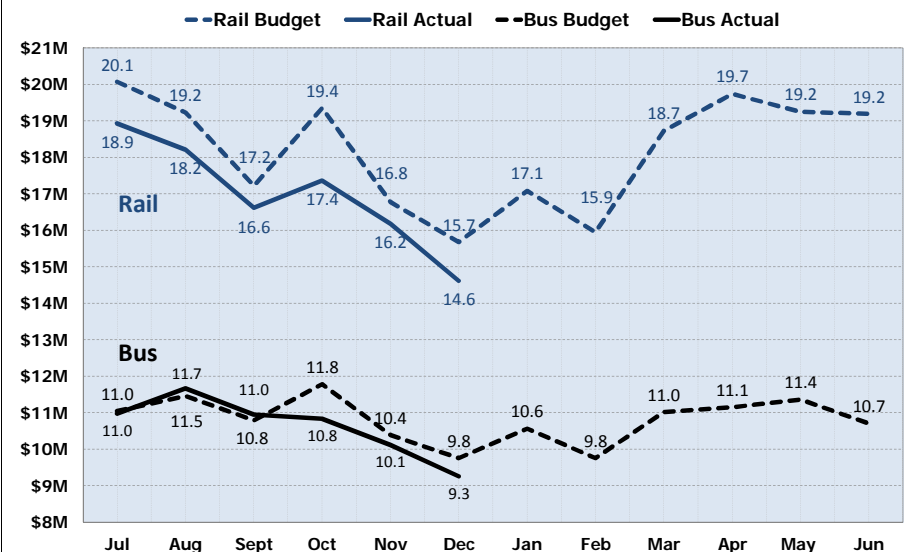
### Year-to-date Ridership

- **Rail ridership** YTD is (6.4M) below budget, or -5.9%; rail ridership YTD is also down (6.1M) compared to the same period in FY12. The portion of the ridership loss attributable to Hurricane Sandy and the Christmas Eve holiday is approximately 1.8M trips.
- **Bus ridership** is (1.4M) below budget YTD, or -2.1%; bus ridership YTD is also down (2.0M) compared to the same period in FY12. As noted above, in addition to Hurricane Sandy and Christmas Eve, a farebox software error is causing ridership undercounts. When corrected, bus ridership should be at or near budget.
- **MetroAccess ridership** is -10.5% below budget YTD; Access ridership YTD is also down -3.2% compared to the same period in FY12.

## REVENUE (in Millions)



## MONTHLY RIDERSHIP FOR RAIL AND BUS (in Millions)





# CAPITAL PROGRAM REPORT

2nd Quarter FY2013

## SOURCES OF FUNDS (\$ in Millions)

	Expenditure-Based Year to Date Sources of Funds				
	Budget	Forecast	Awarded	Received	To be Rec.
FY2012 CIP	\$ 1,042	\$ 917	\$ 363	\$ 357	\$ 685
FY2013 CIP	\$ 1,073	\$ 975	\$ 377	\$ 346	\$ 727

	Obligation-Based to Date Sources of Funds				
	Budget		Awarded	Received	To be Rec.
Safety & Security	\$ 38		\$ 38	\$ -	\$ 38
ARRA	\$ 8		\$ 8	\$ 2	\$ 6
Reimbursable	\$ 57		\$ 57	\$ 13	\$ 44
Total	\$ 104		\$ 104	\$ 15	\$ 89

## USES OF FUNDS (\$ in Millions)

	Expenditure-Based Year to Date Uses of Funds					
	Budget	Forecast	Obligated	Expended	% Obl.	% Exp.
FY2012 CIP	\$ 1,042	\$ 917	\$ 699	\$ 307	76.2%	33.5%
FY2013 CIP	\$ 1,073	\$ 975	\$ 572	\$ 341	58.6%	34.9%

	Obligation-Based to Date Uses of Funds					
	Budget		Obligated	Expended	% Obl.	% Exp.
Safety & Security	\$ 39		\$ 39	\$ 11	99.7%	27.2%
ARRA	\$ 9		\$ 8	\$ 2	92.9%	21.2%
Reimbursable	\$ 57		\$ 52	\$ 23	92.7%	41.2%
Total	\$ 104		\$ 99	\$ 36	95.4%	34.3%

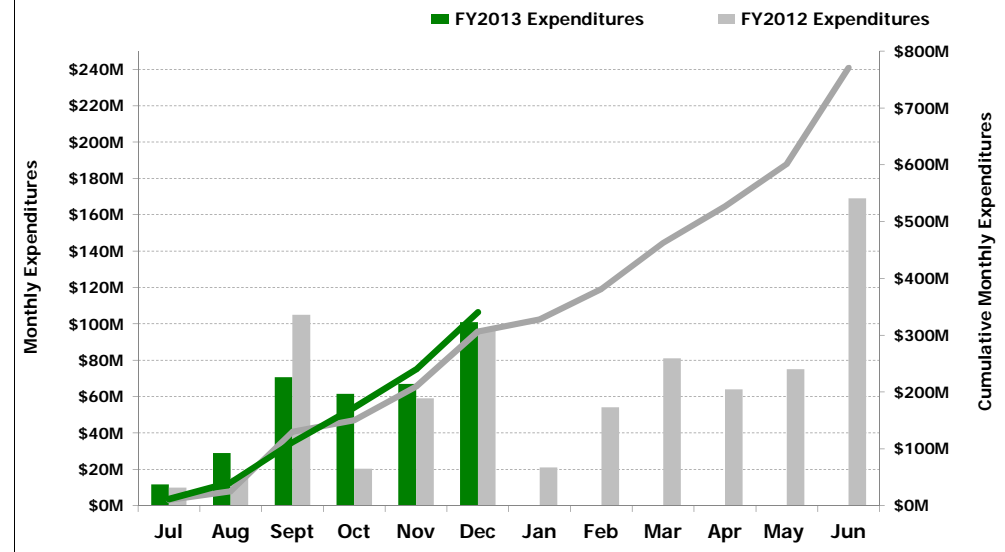
## CAPITAL PROGRAM HIGHLIGHTS

### As of December 31, 2012:

The Capital Improvement Program (CIP) has expended \$341 million in FY2013. This is \$34 million more than the same period in FY2012. Accomplishments include:

- 37 of the planned 96 forty-foot hybrid/electric buses have been received and are in service.
- A contract has been awarded for the planned purchase of 138 paratransit vans.
- 20 of the 54 planned FY2013 escalator rehabilitations/modernizations are complete.
- 4 of the 25 planned FY2013 elevator rehabilitations/modernizations are complete.
- 5 of the 12 planned full station enhancement projects are complete; 6 of the planned 12 mini station enhancements are complete and 1 full enhancement and 5 mini-station enhancement projects are underway.
- Track rehabilitation work completed includes the following: welded 326 open weld joints, retrofitted 465 linear feet of floating slabs, rehabilitated 6,102 linear feet of grout pads, tamped 15.08 miles of track, repaired 866 leaks, and replaced 5.61 miles of running rail, 7,522 cross ties, 14,403 fasteners, 3,394 insulators, 422 safety signs, six yard turnouts, and 2,522 direct fixation fasteners.

## CIP EXPENDITURES (\$ in Millions)



## CAPITAL BUDGET REPROGRAMMING STATUS (\$ in Millions)

### \* Reprogrammed From:

Project ID	Name	Reprogramming
CIP0085	Royal Street Bus Garage Replacement	\$-10,000,000
CIP0049	Management Support Software	-1,061,000
CIP0047	Enterprise GIS	-1,097,000
CIP0042	Bus and Rail Asset Management Software	-470,000
CIP0052	Network and Communications	-361,000
CIP0131	Credit Facility	-200,000
<b>Total</b>		<b>\$-13,189,000</b>

### Reprogrammed To:

Project ID	Name	Reprogramming
CIP0024	Track Rehabilitation	\$7,000,000
CIP0106	Special Operations Division Facility	3,000,000
CIP0045	Data Centers and Infrastructure	2,489,000
CIP0046	Document Management System	500,000
CIP0074	Install Parking Lot Credit Card Readers	200,000
<b>Total</b>		<b>\$13,189,000</b>

\*Reprogramming actions were approved after the close of the second quarter. Changes to project budgets are as of 1/11/13



AGENDA ITEM #6

**TO:** Chairman McKay and NVTC Commissioners

**FROM:** Rick Taube

**DATE:** March 28, 2013

**SUBJECT:** DRPT Report

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NVTC Commissioner Jim Dyke will present information about the activities, issues, concerns, initiatives, etc. of the Virginia Department of Rail and Public Transportation.



AGENDA ITEM #7

**TO:** Chairman McKay and NVTC Commissioners  
**FROM:** Claire Gron  
**DATE:** March 28, 2013  
**SUBJECT:** Regional Transportation Items

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**A. Crystal City-Potomac Yard Transitway Update.**

The region's first Transitway route is now under construction. The Crystal City-Potomac Yard Transitway (CCPY)—a five-mile long planned transit corridor extending between the Braddock Road Metrorail station in the city of Alexandria and the Crystal City Metrorail station in Arlington County—is expected to open for service in 2014. A future extension from Crystal City Metrorail station to Pentagon City Metrorail station is planned. The route will feature branded bus service provided by the Washington Metropolitan Area Transit Authority (WMATA) in predominately dedicated lanes, with off-board fare collection, level boarding at platforms, real-time arrival information, and other amenities at stations.

A segment of the transitway is now under construction along Route 1 in Alexandria. Construction on this segment is anticipated to be completed in late 2013/early 2014, with Alexandria service beginning in March 2014. Arlington plans to advertise a request for construction bids soon, and hopes to break ground in September 2013. If all goes according to schedule, Arlington service will begin in July 2014.

A PowerPoint presentation is attached providing detailed information concerning the project. Please refer to Attachment A.

**B. Route 1 Study.**

The Virginia Department of Rail and Public Transportation (DRPT) is initiating a multimodal study for the Route 1 corridor in Fairfax County. The conference report for the budget bill (HB 1500), adopted in February 2013, allocated \$2M of DRPT funding for the study. In addition, within the last year or so, Fairfax County applied for a Federal Transit Administration (FTA) grant in order to conduct an Alternatives Analysis (AA) in the corridor, and DRPT had set aside \$500,000 for

a local match. FTA did not end up awarding any grant funding, and the \$500,000 is expected to supplement the \$2M allocated for the new study.

According to Fairfax County, the new study will take the form of a Tier 1 Environmental Impact Statement (EIS). Earlier this month, DRPT, which will be managing the project, met with federal agencies to develop a scope for the project. The study will examine transit alternatives for the Route 1 corridor from the Beltway to Ft. Belvoir, and perhaps into Prince William County.

# **Route 1 Transitway**



# Route 1 Transitway



- 5-mile corridor between Pentagon City and Braddock Road Metrorail stations
- 30 stations along corridor
- Largely dedicated right-of-way
- Expected daily ridership of 3,570 by 2017
- First segment in Alexandria primarily funded through \$8.5M TIGER grant and other federal grants
- Construction in Alexandria began in Summer 2012
- Construction in Arlington County expected to begin Fall 2013
- Slated to open Spring/Summer 2014

# Planned Transitway Service

- Initially operated by WMATA

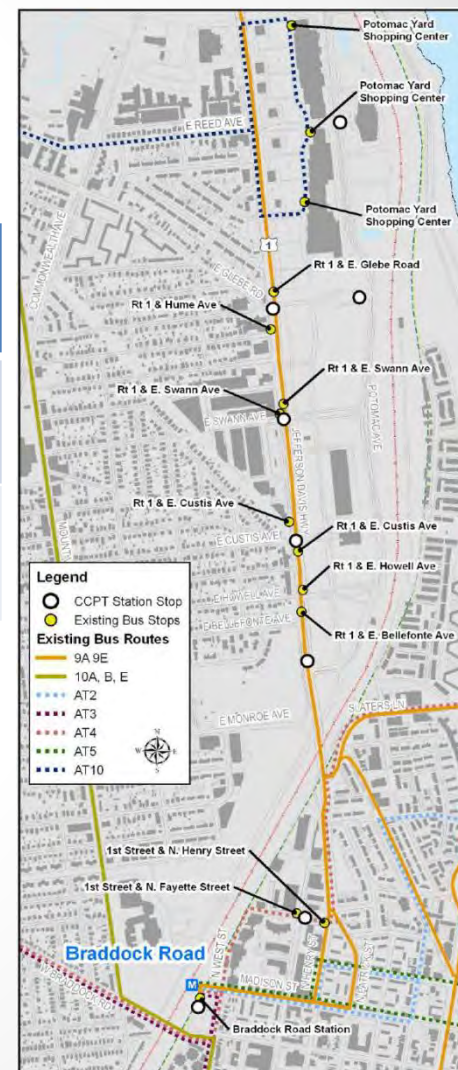
## Service Frequencies

Section	Lines	Peak Frequency	Off-peak Frequency	Weekend Frequency
Crystal City to Potomac Yard	9S, 9X	3-6 min 15 buses/hr	7.5 min 8 buses/hr	10 min 6 buses/hr
Pentagon City to Braddock Road	9X	12 min 5 buses/hr	15 min 4 buses/hr	20 min 3 buses/hr

## Vehicle Requirements

Line	Total Vehicles	Existing Vehicles	New Vehicles
9S	6	6	0
9X	7	0	7

\*Assumes 40% spare ratio to accommodate unique BRT fleet



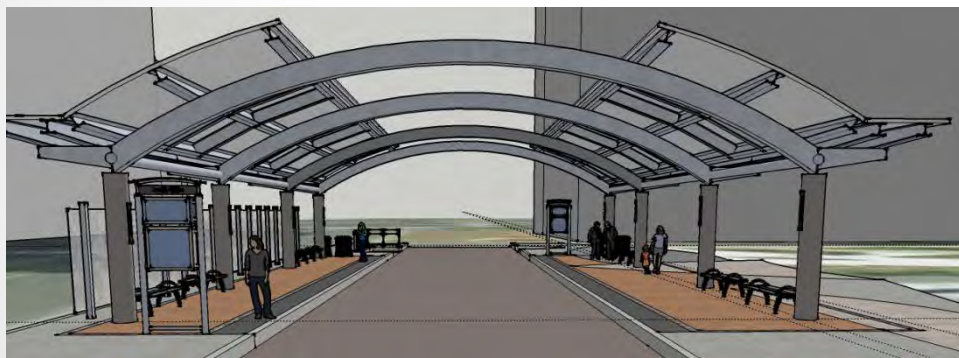


# Amenities

- Off-board fare collection (proof of payment)
- Real-time information
- Near-level boarding at station platforms
- Branded bus fleet
- Dedicated right-of-way
- Custom designed shelters and stations
- Frequent, reliable service



City of Alexandria stations in dedicated right-of-way around Potomac Yard



Arlington County station in dedicated transitway just north of Four Mile Run



Arlington County/City of Alexandria station

For more information on this project see:

[www.ccpytransit.com](http://www.ccpytransit.com)

Or contact:

City of Alexandria – Susan Gygi  
([susan.gygi@alexandriava.gov](mailto:susan.gygi@alexandriava.gov))

[www.alexandriava.gov/potomacyard](http://www.alexandriava.gov/potomacyard)

Arlington County – Matthew Huston  
([mhuston@arlingtonva.us](mailto:mhuston@arlingtonva.us))

<http://sites.arlingtonva.us/ccpc/transit-improvements/crystal-city-potomac-yard-transitway/>



AGENDA ITEM #8

**TO:** Chairman McKay and NVTC Commissioners  
**FROM:** Scott Kalkwarf and Colethia Quarles  
**DATE:** March 28, 2013  
**SUBJECT:** NVTC Financial Items for February, 2013.

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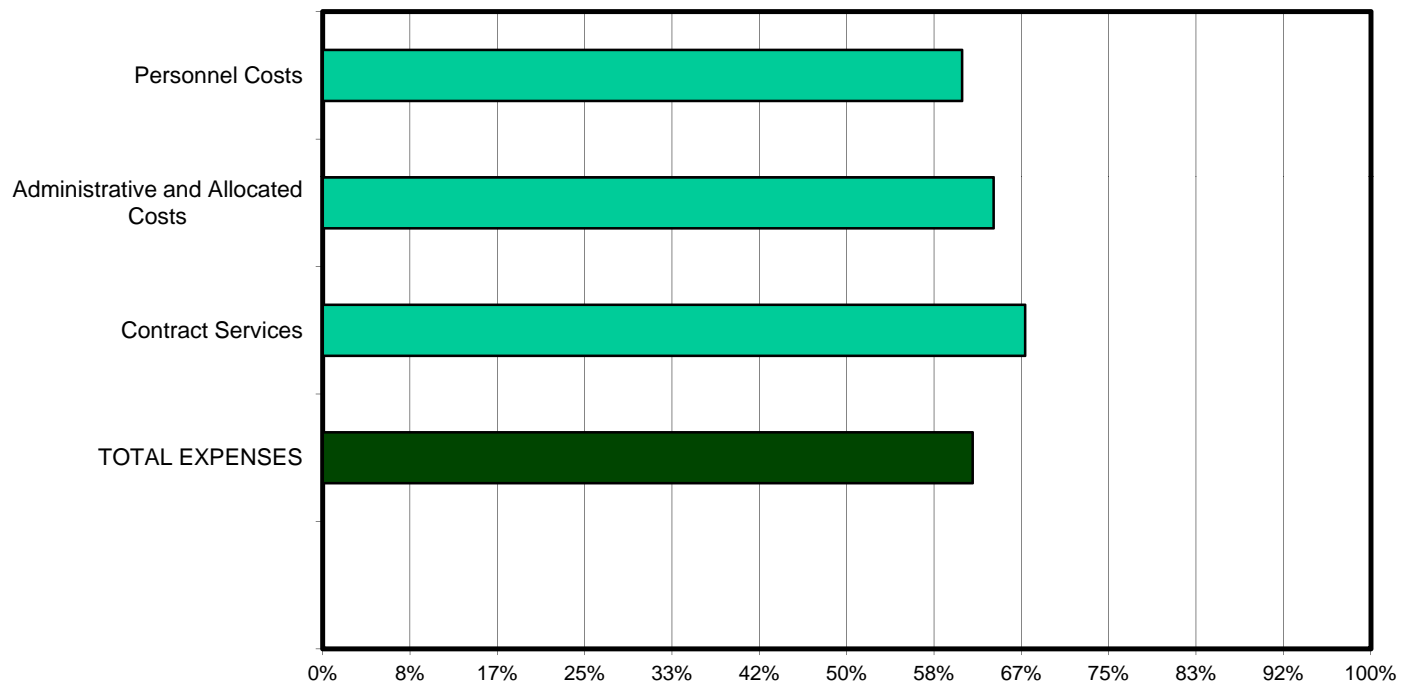
The financial report for February, 2013 is attached for your information.

# Northern Virginia Transportation Commission

Financial Reports

February, 2013

Percentage of FY 2013 NVTC Administrative Budget Used  
February, 2013  
(Target 66.67% or less)



**Note: Refer to pages 2 and 3 for details**

**NORTHERN VIRGINIA TRANSPORTATION COMMISSION**  
**G&A BUDGET VARIANCE REPORT**  
**February 2013**

	<b><u>Current Month</u></b>	<b><u>Year To Date</u></b>	<b><u>Annual Budget</u></b>	<b><u>Balance Available</u></b>	<b><u>Balance %</u></b>
<b><u>Personnel Costs</u></b>					
Salaries	\$ 51,851.44	\$ 437,749.27	\$ 697,950.00	\$ 260,200.73	37.3%
Temporary Employee Services	-	-	-	-	
Total Personnel Costs	51,851.44	437,749.27	697,950.00	260,200.73	37.3%
<b><u>Benefits</u></b>					
Employer's Contributions:					
FICA	3,637.40	28,333.05	48,100.00	19,766.95	41.1%
Group Health Insurance	5,824.45	45,984.40	103,500.00	57,515.60	55.6%
Retirement	3,627.01	43,842.01	64,900.00	21,057.99	32.4%
Workmans & Unemployment Compensation	336.69	2,698.07	3,300.00	601.93	18.2%
Life Insurance	257.76	2,166.73	4,000.00	1,833.27	45.8%
Long Term Disability Insurance	249.54	1,974.08	3,700.00	1,725.92	46.6%
Total Benefit Costs	13,932.85	124,998.34	227,500.00	102,501.66	45.1%
<b><u>Administrative Costs</u></b>					
Commissioners Per Diem	1,000.00	7,150.00	10,000.00	2,850.00	28.5%
<i>Rents:</i>	<i>16,270.35</i>	<i>126,214.20</i>	<i>189,500.00</i>	<i>63,285.80</i>	<i>33.4%</i>
Office Rent	15,260.94	120,009.79	177,700.00	57,690.21	32.5%
Parking	1,009.41	6,204.41	11,800.00	5,595.59	47.4%
<i>Insurance:</i>	<i>300.58</i>	<i>3,432.61</i>	<i>6,400.00</i>	<i>2,967.39</i>	<i>46.4%</i>
Public Official Bonds	-	1,170.00	2,300.00	1,130.00	49.1%
Liability and Property	300.58	2,262.61	4,100.00	1,837.39	44.8%
<i>Travel:</i>	<i>419.76</i>	<i>2,620.35</i>	<i>5,800.00</i>	<i>3,199.65</i>	<i>55.2%</i>
Conference Registration	20.00	20.00	-	-	0.0%
Conference Travel	227.78	616.33	1,500.00	883.67	58.9%
Local Meetings & Related Expenses	171.98	1,984.02	4,000.00	2,015.98	50.4%
Training & Professional Development	-	-	300.00	300.00	100.0%
<i>Communication:</i>	<i>458.49</i>	<i>4,872.13</i>	<i>8,740.00</i>	<i>3,867.87</i>	<i>44.3%</i>
Postage	(0.46)	1,405.52	3,400.00	1,994.48	58.7%
Telecommunication	458.95	3,466.61	5,340.00	1,873.39	35.1%
<i>Publications &amp; Supplies</i>	<i>823.37</i>	<i>6,128.21</i>	<i>10,600.00</i>	<i>4,471.79</i>	<i>42.2%</i>
Office Supplies	230.67	881.57	3,200.00	2,318.43	72.5%
Duplication	592.70	4,722.74	6,900.00	2,177.26	31.6%
Public Information	-	523.90	500.00	(23.90)	-4.8%



**NORTHERN VIRGINIA TRANSPORTATION COMMISSION**  
**G&A BUDGET VARIANCE REPORT**  
**February 2013**

	<b><u>Current Month</u></b>	<b><u>Year To Date</u></b>	<b><u>Annual Budget</u></b>	<b><u>Balance Available</u></b>	<b><u>Balance %</u></b>
<i>Operations:</i>	661.13	2,002.12	11,500.00	9,497.88	82.6%
Furniture and Equipment	-	-	4,000.00	4,000.00	0.0%
Repairs and Maintenance	-	-	1,000.00	1,000.00	100.0%
Computers	661.13	2,002.12	6,500.00	4,497.88	69.2%
<i>Other General and Administrative</i>	719.11	5,312.23	5,100.00	1.49	0.0%
Subscriptions	-	213.72	-	-	0.0%
Memberships	-	1,176.03	1,200.00	23.97	2.0%
Fees and Miscellaneous	257.89	2,330.04	3,000.00	669.96	22.3%
Advertising (Personnel/Procurement)	461.22	1,592.44	900.00	(692.44)	-76.9%
Total Administrative Costs	<u>20,652.79</u>	<u>157,731.85</u>	<u>247,640.00</u>	<u>90,141.87</u>	<u>36.4%</u>
<u>Contracting Services</u>					
Auditing	-	14,230.00	21,250.00	7,020.00	33.0%
Consultants - Technical	-	-	-	-	0.0%
Legal	-	-	-	-	0.0%
Total Contract Services	<u>-</u>	<u>14,230.00</u>	<u>21,250.00</u>	<u>7,020.00</u>	<u>33.0%</u>
 Total Gross G&A Expenses	<u><u>\$ 86,437.08</u></u>	<u><u>\$ 734,709.46</u></u>	<u><u>\$ 1,194,340.00</u></u>	<u><u>\$ 459,864.26</u></u>	<u><u>38.5%</u></u>

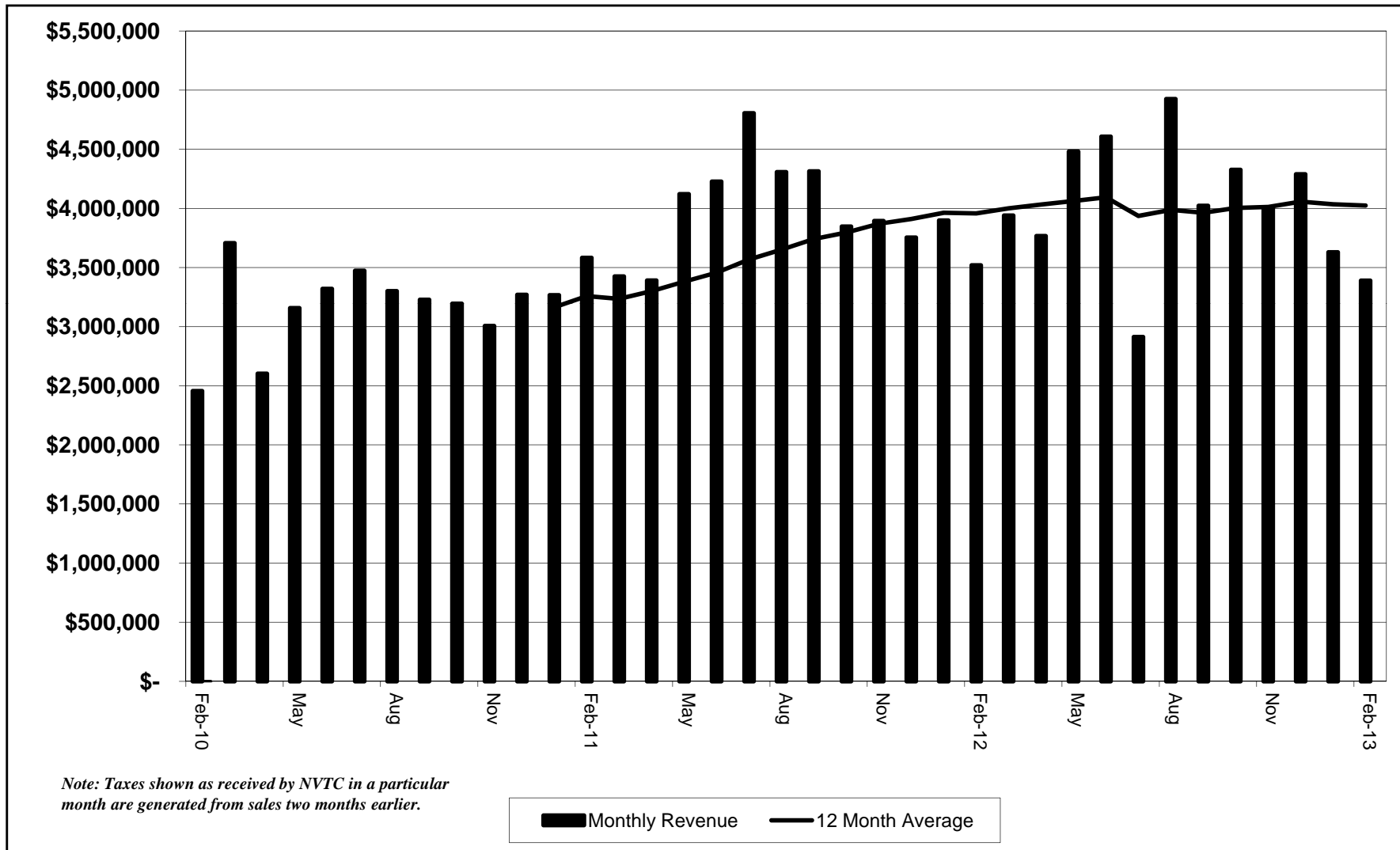
**NVTC**  
**RECEIPTS and DISBURSEMENTS**  
**February, 2013**

Payer/ Date		Payee	Purpose	Wells Fargo (Checking)	Wells Fargo (Savings)	VA LGIP	
						G&A / Project	Trusts
RECEIPTS							
1	DRPT	Capital grants receipts					\$ 143,372.00
1	DRPT	Capital grant receipt				1,877.00	
1	DRPT	Capital grants receipts - VRE				318,131.00	
4	DRPT	Capital grant receipt - VRE				2,147.00	
7	VRE	Staff support			6,359.18		
7	Staff	Expense reimbursement			0.46		
8	DRPT	Capital grants receipts - Arlington					355,897.00
14	Dept. of Taxation	Motor Vehicle Fuels Sales tax					3,388,690.05
14	FTA	City of Alexandria project grant receipt					41,524.00
15	DRPT	Operating assistance receipt - City Fairfax					53,172.00
15	DRPT	Operating assistance receipt - Falls Church					71,568.00
15	DRPT	Operating assistance receipt - Fairfax					3,340,012.00
15	DRPT	Operating assistance receipt - Arlington					1,591,289.00
15	DRPT	Operating assistance receipt - Alexandria					928,911.00
21	DRPT	Capital grant receipt - Fairfax					5,051,831.00
21	DRPT	Capital grant receipt					2,667.00
21	DRPT	NVTA update grants receipts				39,203.00	
25	DRPT	Capital grant receipt - Fairfax					31,431.00
26	DRPT	Capital grants receipts - Alexandria					1,168,086.00
26	DRPT	Capital grants receipts - Fairfax					2,083,570.00
27	DRPT	Capital grants receipts - City of Fairfax					37,888.00
28	DRPT	Capital grant receipt					415,723.00
28	DRPT	Capital grants receipts - Falls Church					39,212.00
28	DRPT	Capital grant receipt - VRE				316,555.00	
28	Banks	Interest income			2.19	51.44	15,507.37
				-	6,361.83	677,964.44	18,760,350.42
DISBURSEMENTS							
1-28	Various	G&A expenses		(80,590.98)			
1	City of Alexandria	Project grant revenue				(9,384.00)	
1	VRE	Grant revenue				(318,131.00)	
4	VRE	Grant revenue				(2,147.00)	
14	Parsons Brinckerhoff	Consulting - Route 7		(51,905.34)			
21	Cambridge	Consulting - NVTA Update		(27,248.57)			
21	Cambridge	Consulting - NVTA Update		(11,955.50)			
28	VRE	Grant revenue				(316,555.00)	
28	Banks	Service fees		(60.62)	(26.72)		
				(171,761.01)	(26.72)	(646,217.00)	-
TRANSFERS							
6	Transfer	LGIP to LGIP ( Route 7)				32,812.50	(32,812.50)
6	Transfer	LGIP to checking		150,000.00		(150,000.00)	
27	Transfer	LGIP to checking		150,000.00		(150,000.00)	
				300,000.00	-	(267,187.50)	(32,812.50)
NET INCREASE (DECREASE) FOR MONTH				\$ 128,238.99	\$ 6,335.11	\$ (235,440.06)	\$ 18,727,537.92

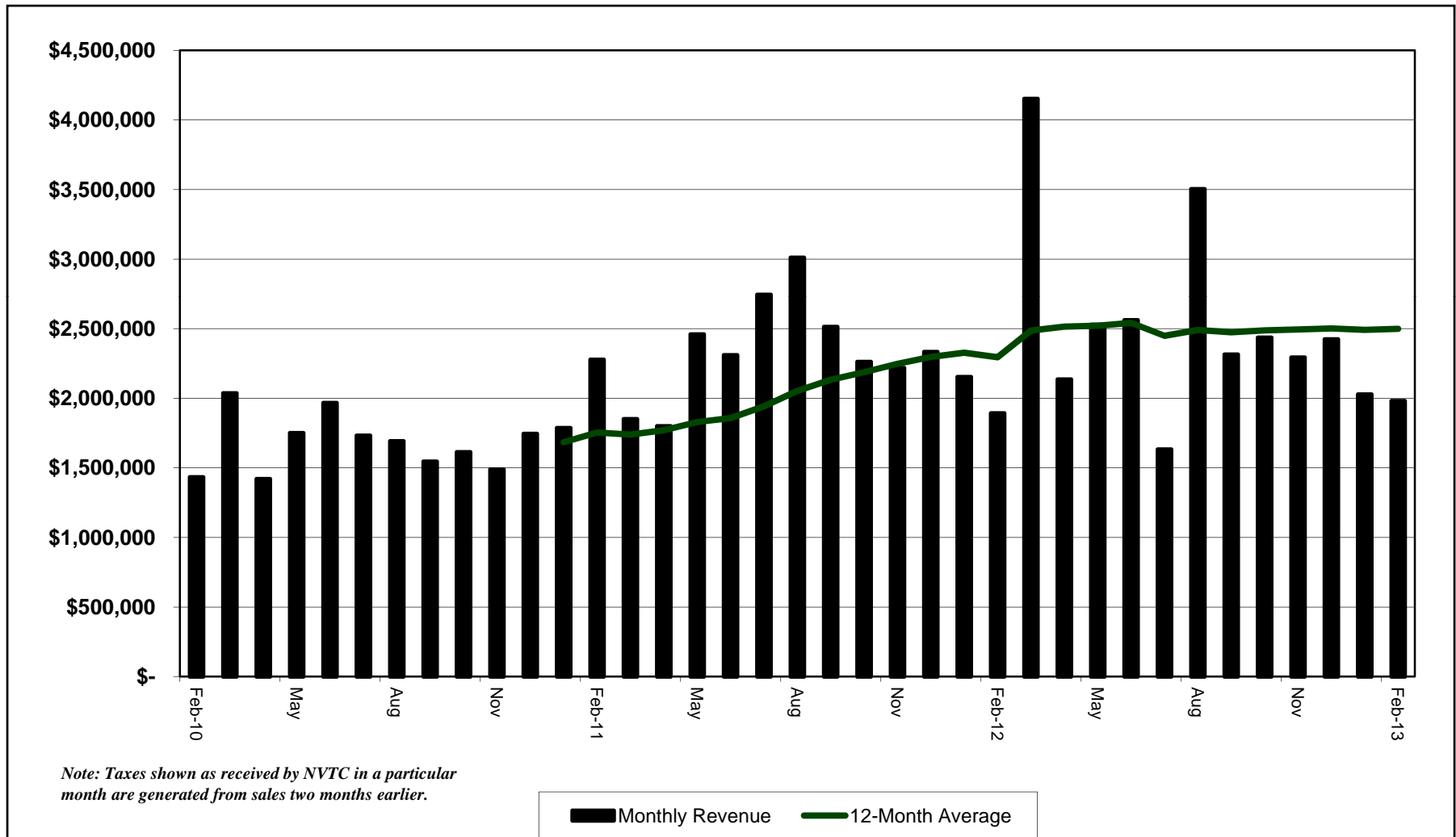
**NVTC  
INVESTMENT REPORT  
February, 2013**

<b>Type</b>	<b>Rate</b>	<b>Balance 1/31/2013</b>	<b>Increase (Decrease)</b>	<b>Balance 2/28/2013</b>	<b>NVTC G&amp;A/Project</b>	<b>Jurisdictions Trust Fund</b>	<b>Loudoun Trust Fund</b>
<b><u>Cash Deposits</u></b>							
Wells Fargo: NVTC Checking	N/A	\$ 20,950.43	\$ 128,238.99	\$ 149,189.42	\$ 149,189.42	\$ -	\$ -
Wells Fargo: NVTC Savings	0.200%	138,134.09	6,335.11	144,469.20	144,469.20	-	-
<b><u>Investments - State Pool</u></b>							
Bank of America - LGIP	0.150%	127,978,685.87	18,492,097.86	146,470,783.73	333,057.39	125,217,891.85	20,919,834.49
		<u>\$ 128,137,770.39</u>	<u>\$ 18,717,096.19</u>	<u>\$ 146,764,442.35</u>	<u>\$ 626,716.01</u>	<u>\$ 125,217,891.85</u>	<u>\$ 20,919,834.49</u>

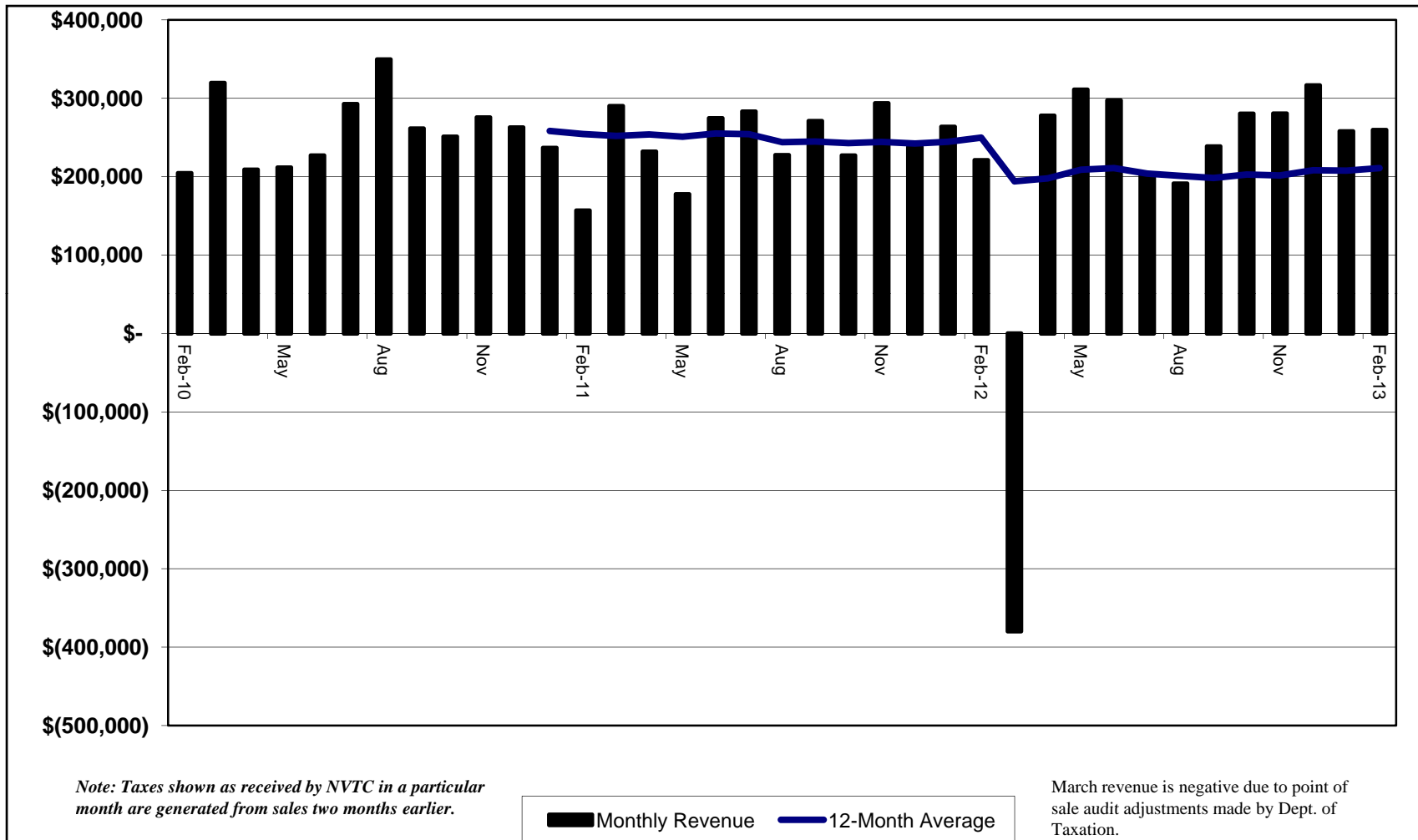
**NVTC MONTHLY GAS TAX REVENUE**  
**ALL JURISDICTIONS**  
**FISCAL YEARS 2010-2013**



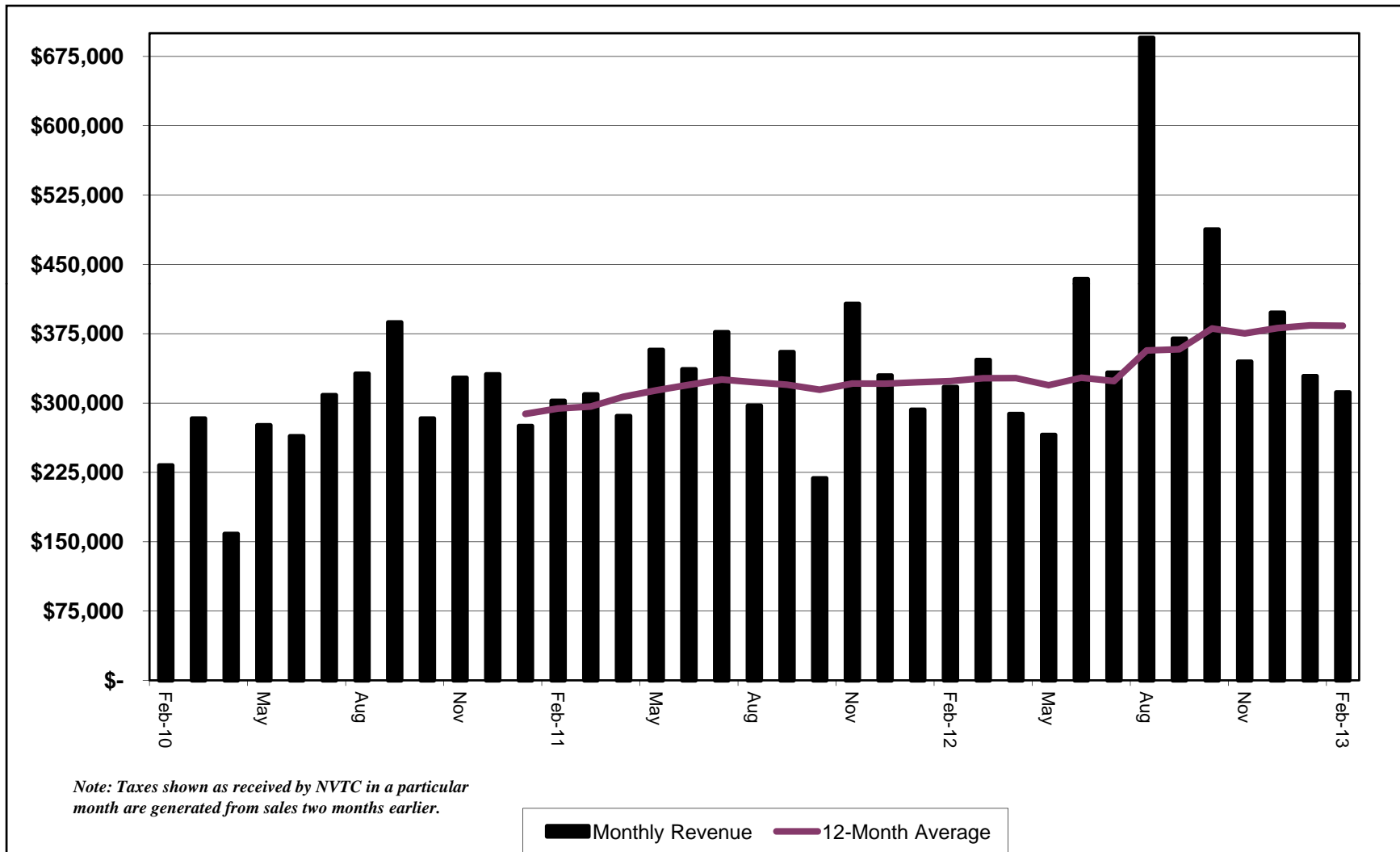
# NVTC MONTHLY GAS TAX REVENUE FAIRFAX COUNTY FISCAL YEARS 2010-2013



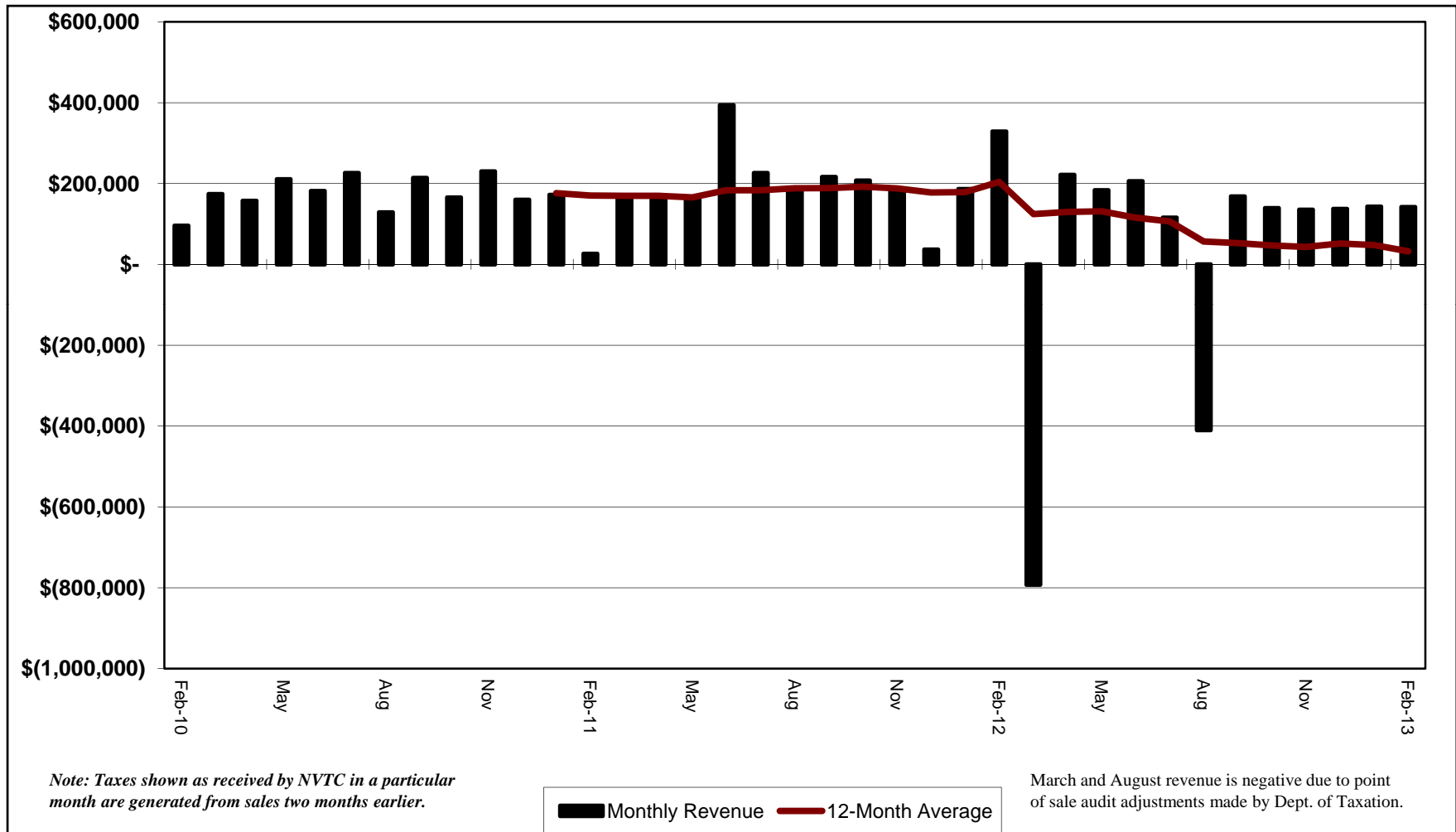
# NVTC MONTHLY GAS TAX REVENUE CITY OF ALEXANDRIA FISCAL YEARS 2010-2013



# NVTC MONTHLY GAS TAX REVENUE ARLINGTON COUNTY FISCAL YEARS 2010-2013

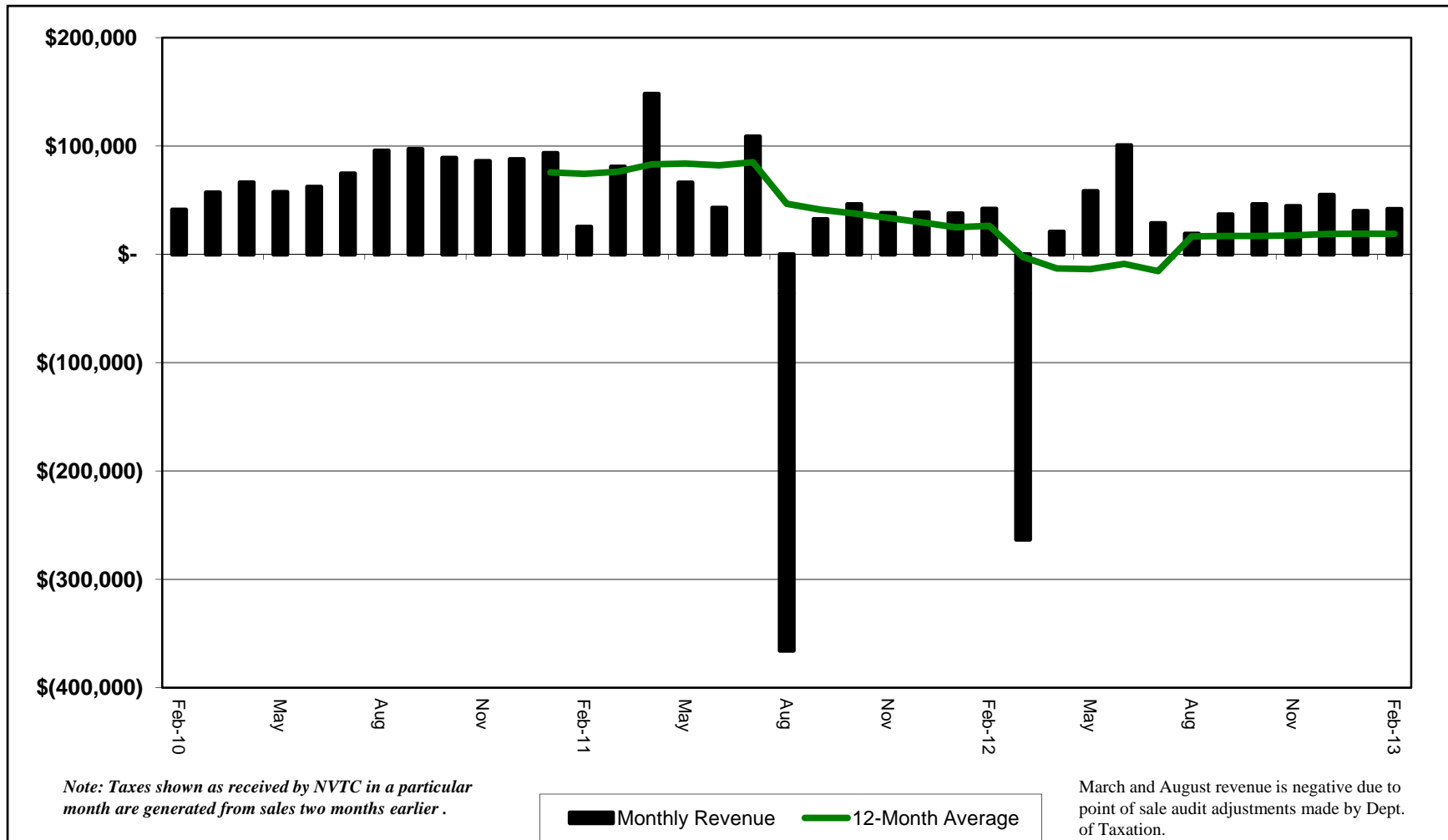


# NVTC MONTHLY GAS TAX REVENUE CITY OF FAIRFAX FISCAL YEARS 2010-2013





# NVTC MONTHLY GAS TAX REVENUE CITY OF FALLS CHURCH FISCAL YEARS 2010-2013



NVTC MONTHLY GAS TAX REVENUE  
LOUDOUN COUNTY  
FISCAL YEARS 2010-2013

