

**PART 5: ENACTMENT NUMBERS 9 THROUGH 35**

**9. That the Keeper of the Rolls shall enroll this bill so as to incorporate this enactment and the following amendments into the appropriation items and provisions contained in the eighth enactment of this bill. Any new items below shall be placed in numerical order within the eighth enactment in the enrolled bill. Amounts necessary to effect these amendments are hereby appropriated from the State treasury.**

**10. That Chapter 289 of the Acts of Assembly of 1989, as amended and reenacted by Chapter 888 of the Acts of Assembly of 1990 and Chapters 385 and 401 of the Acts of Assembly of 1992, Chapters 139 and 147 of the Acts of Assembly of 1994, Chapters 375 and 458 of the Acts of Assembly of 1996, Chapter 464 of the Acts of Assembly of 1998, and Chapters 501 and 553 of the Acts of Assembly of 2000, is hereby repealed effective January 1, 2003.**

**11. That §§ 2.2-1509.2, 33.1-12, 33.1-23.03:1, 33.1-23.03:2, 33.1-23.03:8, 33.1-221.1:1.1, 46.2-694, 46.2-694.1, 46.2-697, 46.2-698, 46.2-700, 46.2-730, 46.2-752, 46.2-753, 46.2-1135, 58.1-802, 58.1-811, 58.1-812, 58.1-813, 58.1-2217, 58.1-2249, 58.1-2289, 58.1-2402, 58.1-2425, 58.1-2701, and 58.1-2706 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 33.1-23.05, 33.1-221.1:1.2, 46.2-206.1, 46.2-702.1, and 58.1-802.1, and by adding in Article 2 of Chapter 25 of Title 58.1 a section numbered 58.1-2531 as follows:**

§ 2.2-1509.2. Use of transportation moneys.

~~If any money in the Highway Maintenance and Operating Fund or the Transportation Trust Fund established pursuant to § 33.1-23.03:1 is proposed to be used for any purpose other than administering, planning, constructing, improving, and maintaining the roads embraced in the systems of highways for the Commonwealth and its localities and/or furthering the interests of the Commonwealth in the areas of public transportation, railways, seaports, and/or airports, then the Governor, if such diversion is proposed by the Governor, shall include with any such proposal a plan for repayment of funds diverted within three years of such use in "The Budget Bill" submitted pursuant to § 2.2-1509.~~

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

A. All moneys credited to the Highway Maintenance and Operating Fund, the Priority Transportation Fund, the Shortline Railway Preservation and Development Fund, the Rail Enhancement Fund, the Transportation Trust Fund, hereinafter referred to as "the Funds," or any related subaccount, fund, or subfund of any of the Funds shall be used for the purposes specified in this section.

B. 1. Such moneys credited to the Funds shall be the revenues designated for deposit into any of the Funds from (i) the revenues generated annually from the taxes, fees, or other charges imposed under Titles 33.1 and 46.2 of the Code of Virginia for such Funds; (ii) the revenues generated annually pursuant to Chapters 11, 12, and 15 of the Acts of Assembly of 1986, Special Session, as the provisions of such Chapters may be amended; (iii) the revenues generated annually from Chapters 6 (§ 58.1-600 et seq.), 8 (§ 58.1-800 et seq.), 22 (§ 58.1-2200 et seq.), 24 (§ 58.1-2400 et seq.), 25 (§ 58.1-2500 et seq.), and 27 (§ 58.1-2700 et seq.) of Title 58.1; and (iv) such other sources as the General Assembly may dedicate or appropriate to any of the Funds. In addition, all interest, dividends, or appreciation accruing to any of the Funds shall also be part of the Funds and be used for the purposes specified in this section.

2. The revenues described in subdivision 1 shall include but are not limited to the revenues described in subdivisions A 1 and A 2 of § 33.1-23.03:8; all taxes and fees collected under Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1 credited to the Highway Maintenance and Operating Fund as provided in subsection C of § 58.1-2701; all funds, tolls, revenues, amounts required to be paid over to the Transportation Trust Fund, and interest, dividends, and appreciation accruing to the Transportation Trust Fund or the Highway Maintenance and Operating Fund, as designated for the Transportation Trust Fund pursuant to § 33.1-23.03:1; all state recordation taxes deposited into the U.S. Route 58 Corridor Development Fund pursuant to § 58.1-815; all state recordation taxes deposited or transferred into the Northern Virginia Transportation District Fund pursuant to § 58.1-815.1 and any public rights-of-way use fees or state or local revenues deposited into the Northern Virginia Transportation District Fund pursuant to such section; all state recordation taxes deposited or transferred into the Transportation Improvement Program Set-aside Fund pursuant to § 58.1-816.1; the revenues deposited into the Shortline Railway Preservation and Development Fund, the Rail Enhancement Fund, the Commonwealth Mass Transit Fund, and the Highway Construction Fund as provided in subsection B of § 33.1-23.03:2 pursuant to enactments of a Session of the General Assembly held in 2006; the revenues from the motor vehicle sales and use tax deposited into the Transportation Trust Fund pursuant to

subsection A of § 58.1-2425; the revenues from fee imposed on any person or entity operating a terminal located in the Commonwealth deposited into the Transportation Trust Fund as provided under § 33.1-23.05 pursuant to enactments of a Session of the General Assembly held in 2006; the revenues from the insurance license tax on automobile premiums deposited into the Transportation Trust Fund as provided under § 58.1-2531 pursuant to enactments of a Session of the General Assembly held in 2006; the revenues from the vehicle registration fees deposited into the Transportation Trust Fund as provided under § 46.2-702.1 pursuant to enactments of a Session of the General Assembly held in 2006; the revenues from the fuels taxes deposited into the Transportation Trust Fund as provided in subsection F of § 58.1-2289 pursuant to enactments of a Session of the General Assembly held in 2006; the revenues from the motor vehicle sales and use tax deposited into the Rail Enhancement Fund as provided in clause (iv) of subsection A of § 58.1-2425; the revenues from the liquidated damages deposited into the Transportation Trust Fund as provided in § 46.2-1135 pursuant to enactments of a Session of the General Assembly held in 2006; the revenues from fees on certain drivers deposited into the Transportation Trust Fund as provided in § 46.2-206.1 pursuant to enactments of a Session of the General Assembly held in 2006; any damages and costs collected pursuant to § 33.1-191 as designated for deposit into the Transportation Trust Fund under such section; any civil penalties, and interest thereon, and cost recoveries designated for deposit into any of the Funds as provided under law; fees for dealer's license plates designated for deposit into the Transportation Trust Fund pursuant to § 46.2-1546; any excess earnings to be deposited into the Transportation Trust Fund under a comprehensive agreement entered into under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) pursuant to subsection E of § 56-566; revenues from the lease, sale, or other conveyance made by the Commonwealth Transportation Board that are designated for deposit into any of the Funds as provided under law; and any locally generated revenues deposited into any of the Funds as provided under law.

C. All moneys credited to the Funds shall be used solely for purposes of:

1. Administering, planning, constructing, improving, or maintaining the roads embraced in the systems of highways for the Commonwealth and its localities, including access roads and bikeways adjacent thereto, or furthering the interests of the Commonwealth in the areas of highways, public transportation, railways, seaports, airports, and congestion mitigation;

2. Making payments on bonds or other obligations (including bond anticipation notes and refunding bonds) that have been issued or entered into to finance transportation projects that are directly related to the purposes described in subdivision 1; or

3. Making loans to finance transportation projects that are directly related to the purposes described in subdivision 1.

D. No moneys designated for deposit into the general fund of the state treasury shall be used for any of the purposes described in subsection C or for any other transportation-related purpose except that moneys designated for deposit into the general fund of the state treasury shall be used for (i) making debt service payments on the \$317 million in principal amount of Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes that were issued for the projects specified in Item 491 H 2 of Chapter 899 of the Acts of Assembly of 2002; (ii) making debt service payments on any transportation-related bonds or other obligations issued pursuant to Article X, Section 9 (c) of the Constitution of Virginia in those cases in which the revenues dedicated for the payment of the debt service on such bonds or other obligations are insufficient to make full payment; and (iii) purposes of making the \$40 million deposit under § 58.1-815 and the \$40 million deposit under § 58.1-816, including any portion of such \$40 million deposit under § 58.1-816 that is actually deposited or transferred into (a) the Northern Virginia Transportation District Fund established under § 58.1-815.1 or (b) the Transportation Improvement Program Set-aside Fund established under § 58.1-816.1.

§ 33.1-12. General powers and duties of Board, etc.; definitions.

The Commonwealth Transportation Board shall be vested with the following powers and shall have the following duties:

(1) Location of routes. - To locate and establish the routes to be followed by the roads comprising systems of state highways between the points designated in the establishment of such systems.

(2) Construction and maintenance contracts and activities related to passenger and freight rail and public transportation.

(a) To let all contracts to be administered by the Virginia Department of Transportation or the Department of Rail and Public Transportation for the construction, maintenance, and improvement of the roads comprising systems of state highways and for all activities related to passenger and freight rail

and public transportation in excess of \$2 million. The Commonwealth Transportation Commissioner shall have authority to let all Virginia Department of Transportation-administered contracts for highway construction, maintenance, and improvements up to \$2 million in value. The Director of the Department of Rail and Public Transportation shall have the authority to let contracts for passenger and freight rail and public transportation improvements up to \$2 million in value. The Commonwealth Transportation Commissioner is authorized to enter into agreements with localities, authorities, and transportation districts to administer projects and to allow those localities, authorities, and transportation districts to let contracts for highway construction, maintenance, and improvements within their jurisdictions. The Director of the Department of Rail and Public Transportation is authorized to enter into agreements with localities, authorities, and transportation districts to administer projects and to allow those localities, authorities, and transportation districts to let contracts for passenger and freight rail and public transportation activities within their jurisdictions. The Commonwealth Transportation Commissioner and the Director of the Department of Rail and Public Transportation shall report on their respective transportation contracting activities at least quarterly to the Board.

(b) The Commonwealth Transportation Board may award contracts for the construction of transportation projects on a design-build basis. The Board may annually award five design-build contracts valued no more than \$20 million. The Board may also award design-build contracts valued more than \$20 million, provided that no more than five of these latter contracts are in force at the same time. These contracts may be awarded after a written determination is made by the Commonwealth Transportation Commissioner or the Director of the Department of Rail and Public Transportation, pursuant to objective criteria previously adopted by the Board regarding the use of design-build, that delivery of the projects must be expedited and that it is not in the public interest to comply with the design and construction contracting procedures normally followed. Such objective criteria will include requirements for prequalification of contractors and competitive bidding processes. These contracts shall be of such size and scope to encourage maximum competition and participation by agency prequalified and otherwise qualified contractors. Such determination shall be retained for public inspection in the official records of the Department of Transportation or the Department of Rail and Public Transportation, as the case may be, and shall include a description of the nature and scope of the project and the reasons for the Commissioner's or Director's determination that awarding a design-build contract

will best serve the public interest. The provisions of this section shall supersede contrary provisions of subsection D of § 2.2-4303 and § 2.2-4306.

(c) For transportation construction projects valued in excess of \$100 million, the Commonwealth Transportation Board shall require that a financial plan be prepared. This plan shall include, but not be limited to, the following: (i) a complete cost estimate for all major project elements; (ii) an implementation plan with the project schedule and cost-to-complete information presented for each year; (iii) identified revenues by funding source available each year to meet project costs; and (iv) a detailed cash-flow analysis for each year of the proposed project.

(3) Traffic regulations. - To make rules and regulations, from time to time, not in conflict with the laws of the Commonwealth, for the protection of and covering traffic on and the use of systems of state highways and to add to, amend or repeal the same.

(4) Naming highways. - To give suitable names to state highways and change the names of any highways forming a part of the systems of state highways, except such roads as have been or may hereafter be named by the General Assembly.

(5) Compliance with federal acts. - To comply fully with the provisions of the present or future federal aid acts. The Board may enter into all contracts or agreements with the United States government and may do all other things necessary to carry out fully the cooperation contemplated and provided for by present or future acts of Congress in the area of transportation.

(6) Information and statistics. - To gather and tabulate information and statistics relating to transportation and disseminate the same throughout the Commonwealth. In addition, the Commissioner shall provide a report to the Governor, the General Assembly, the Commonwealth Transportation Board, and the public concerning the current status of all highway construction projects in the Commonwealth. This report shall be posted at least four times each fiscal year, but may be updated more often as circumstances allow. The report shall contain, at a minimum, the following information for every project in the Six-Year Improvement Program: (i) project description; (ii) total cost estimate; (iii) funds expended to date; (iv) project timeline and completion date; (v) statement of whether project is ahead of, on, or behind schedule; and (vi) the name of the prime contractor. Use of one or more Internet websites may be used to satisfy this requirement. Project specific information posted on the Internet shall be updated daily as information is available.

(7) Policies and operation of Departments. - To review and approve policies and transportation objectives of the Department of Transportation and the Department of Rail and Public Transportation, to assist in establishing such policies and objectives, to oversee the execution thereof, and to report thereon to the Commonwealth Transportation Commissioner and the Director of the Department of Rail and Public Transportation, respectively.

(8) Cooperation with other agencies and local governments.

(a) To cooperate with the federal government, the American Association of State Highway and Transportation Officials and any other organization in the numbering, signing and marking of highways, in the taking of measures for the promotion of highway safety, in research activities, in the preparation of standard specifications, in the testing of highway materials and otherwise with respect to transportation projects.

(b) To offer technical assistance and coordinate state resources to work with local governments, upon their request, in developing sound transportation components for their local comprehensive plans.

(9) Transportation.

(a) To monitor and, where necessary, approve actions taken by the Department of Rail and Public Transportation pursuant to Chapter 10.1 (§ 33.1-391.1 et seq.) of this title in order to ensure the efficient and economical development of public transportation, the enhancement of rail transportation, and the coordination of such rail and public transportation plans with highway programs.

(b) To coordinate the planning for financing of transportation needs, including needs for highways, railways, seaports, airports, and public transportation and to set aside funds as provided in § 33.1-23.03:1. To allocate funds for these needs pursuant to §§ 33.1-23.1, [§ 33.1-23.03:2](#), and 58.1-638, the Board shall adopt a Six-Year Improvement Program of anticipated projects and programs by July 1 of each year. This program shall be based on the most recent official Transportation Trust Fund revenue forecast and shall be consistent with a debt management policy adopted by the Board in consultation with the Debt Capacity Advisory Committee and the Department of the Treasury.

(c) To recommend to the General Assembly for their consideration at the next session of the General Assembly, objective criteria to be used by the Board in selecting those transportation projects to be advanced from the feasibility to the construction stage. If such criteria are enacted into law, such objectives shall apply to the interstate, primary, and urban systems of highways.

(d) To enter into contracts with local districts, commissions, agencies, or other entities created for transportation purposes.

(10) Contracts with other states. - To enter into all contracts with other states necessary for the proper coordination of the location, construction, maintenance, improvement and operation of transportation systems, including the systems of state highways with the highways of such other states and, where necessary, to seek the approval of such contracts by the Congress of the United States.

(11) Use of funds. - To administer, distribute, and allocate funds in the Transportation Trust Fund as provided by law. The Commonwealth Transportation Board shall ensure that the total funds allocated to any highway construction project are equal to total expenditures within 12 months following completion of the project. However this requirement shall not apply to debt service apportionments pursuant to § 33.1-23.3 or 33.1-23.4.

(12) Financial and investment advisors. - With the advice of the Secretary of Finance and the State Treasurer, to engage a financial advisor and investment advisor who may be anyone within or without the government of the Commonwealth, to assist in planning and making decisions concerning the investment of funds and the use of bonds for transportation purposes. The work of these advisors shall be coordinated with the Secretary of Finance and the State Treasurer.

(13) The powers of the Virginia Aviation Board set out in Chapter 1 (§ 5.1-1 et seq.) of Title 5.1 and the Virginia Port Authority set out in Chapter 10 (§ 62.1-128 et seq.) of Title 62.1 are in no way diminished by the provisions of this title.

(14) To enter into payment agreements with the Treasury Board related to payments on bonds issued by the Commonwealth Transportation Board.

(15) Outdoor theaters. - By regulation:

(a) To prevent the erection of moving picture screens of outdoor theaters in such a manner as to be ordinarily visible from any highway;

(b) To require that a sufficient space is left between any highway and the entrance to any outdoor theater to prevent congestion on the highway; and

(c) To require that outdoor theater entrances and exits are adequately lighted and marked.

The term "public transportation" or "mass transit" as used in this title means passenger transportation by rubber-tired, rail, or other surface conveyance which provides shared ride services

open to the general public on a regular and continuing basis. The term does not include school buses; charter or sight-seeing service; vehicular ferry service which serves as a link in the highway network; or human service agency or other client-restricted transportation.

§ 33.1-23.03:1. Transportation Trust Fund.

There is hereby created in the Department of the Treasury a special nonreverting fund to be known as the Transportation Trust Fund, consisting of:

1. Funds remaining for highway construction purposes, among the several highway systems pursuant to § 33.1-23.1.

2. [Repealed.]

3. The additional revenues generated by enactments of Chapters 11, 12 and 15 of the Acts of Assembly, 1986 Special Session, and designated for this fund.

4. Tolls and other revenues derived from the projects financed or refinanced pursuant to this title which are payable into the state treasury and tolls and other revenues derived from other transportation projects, which may include upon the request of the applicable appointed governing body, as soon as their obligations have been satisfied, such tolls and revenue derived for transportation projects pursuant to § 33.1-253 (Chesapeake Bay Bridge and Tunnel District) and § 33.1-320 (Richmond Metropolitan Authority) or if the appointed governing body requests refunding or advanced refunding by the Board and such refunding or advanced refunding is approved by the General Assembly. Such funds shall be held in separate subaccounts of the Transportation Trust Fund to the extent required by law or the Board.

5. Tolls and other revenues derived from the Richmond-Petersburg Turnpike, provided that such funds shall be held in a separate subaccount of the Transportation Trust Fund and allocated as set forth in Chapter 574 of the Acts of Assembly of 1983 until expiration of that Act.

6. Such other funds as may be appropriated by the General Assembly from time to time, and designated for this fund.

7. All interest, dividends and appreciation which may accrue to the Transportation Trust Fund and the Highway Maintenance and Construction Fund, except that interest on funds becoming part of the Transportation Trust Fund under subdivision 1 and the Highway Maintenance and Construction Fund shall not become part of the Transportation Trust Fund until July 1, 1988.

8. All amounts required by contract to be paid over to the Transportation Trust Fund.

9. The additional revenues generated by enactments of a Session of the General Assembly held in 2006, and designated for this fund, pursuant to §§ 46.2-206.1, 46.2-702.1, 46.2-1135, and 58.1-2289, clause (vi) of subsection A of § 58.1-2425, and § 58.1-2531.

§ 33.1-23.03:2. Commonwealth Port Fund, Commonwealth Airport Fund and Commonwealth Mass Transit Fund.

A. Of the funds becoming part of the Transportation Trust Fund pursuant to subdivision 3 of § 33.1-23.03:1, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit Fund. The remaining 78.9 percent of the funds deposited into or held in the Transportation Trust Fund in fiscal year 1998-1999, and 78.7 percent of the funds deposited into or held in the Transportation Trust Fund in fiscal year 1999-2000 and thereafter, pursuant to subdivision 3 of § 33.1-23.03:1, together with funds deposited pursuant to subdivisions 1 and 6 of § 33.1-23.03:1, shall be expended for capital improvements including construction, reconstruction, maintenance, and improvements of highways according to the provisions of § 33.1-23.1 B or to secure bonds issued for such purposes, as provided by the Board and the General Assembly.

B. Revenues set forth in subdivision 9 of § 33.1-23.03:1 shall be paid in the manner hereinafter provided in this section.

1. From the first \$50 million of such revenues in each fiscal year, \$45 million shall be deposited into the Rail Enhancement Fund established under § 33.1-221.1:1.1 and \$5 million shall be deposited into the Shortline Railway Preservation and Development Fund established under § 33.1-221.1:1.2.

2. After the deposits in subdivision 1 have been made, of the remaining revenues set forth in subdivision 9 of § 33.1-23.03:1:

a. 14.7% shall be set aside for capital purposes on the basis provided in subdivision A 4 f of § 58.1-638 and deposited in the Commonwealth Mass Transit Fund. Any funds deposited into the Commonwealth Mass Transit Fund but not required to achieve the purpose set forth in subdivision A 4 f of § 58.1-638 shall be allocated in accordance with subdivision A 4 e of § 58.1-638, and

b. 85.3% shall be deposited into the Highway Construction Fund, and distributed in accordance with subdivisions B 1, B 2, and B 3 of § 33.1-23.1.

The Commissioner of the Department of Motor Vehicles shall make such written certifications as are necessary for the Comptroller to make the deposits under this subsection as soon as practicable.

§ 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 before the effective date of Chapter 22. The portion to be deposited to the Fund shall be the moneys actually collected from such increase in revenues (but not including additional revenues described in subsection F of § 58.1-2289) and allocated for highway and mass transit improvement projects as set forth in subsection A of § 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; and

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 subsection A of § 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~~subsection; and

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

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 subsection B of § 33.1-23.03:2 or § 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.

§ 33.1-23.05. Fee on privilege of operating a terminal.

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

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

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

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

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

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

A. In addition to all other taxes, fees, and other charges imposed by law, there is hereby imposed for the privilege of operating a terminal located in the Commonwealth a fee on every person or entity operating any such terminal. Such fee shall equal \$0.06 on each gallon of blended fuel, diesel fuel, or gasoline that is distributed or otherwise removed from a terminal located in the Commonwealth.

B. Every person or entity operating any terminal located in the Commonwealth shall file, on a monthly basis, with the Commissioner a return showing the number of gallons of blended fuel, diesel fuel, or gasoline distributed or otherwise removed each month from each such terminal that is operated

by the person or entity and any other information required by the Commissioner. The return for each month shall be filed with the Commissioner in accordance with the filing provisions of § 58.1-2230.

C. The fee under this section shall be computed and paid, on a monthly basis and at a rate of \$0.06 on each gallon, for the number of gallons of blended fuel, diesel fuel, or gasoline that are distributed or otherwise removed during the respective month from each terminal located in the Commonwealth. The fee for each month shall be imposed upon the person or entity operating the terminal and shall be remitted to the Commissioner by such person or entity at the same time that the return described under subsection B is filed and in accordance with the payment provisions of § 58.1-2230.

Whenever such person or entity has become liable to another state for a similar privilege or license fee or tax relating to the operation of a terminal and that is based upon gallons of blended fuel, diesel fuel, or gasoline, for which gallons of fuel such person or entity also paid the fee under this section, such person or entity may take as a credit against the fee due under this section the amount of such fee or tax payable by such person or entity to such other state (upon proof of payment of the same) for such gallons of blended fuel, diesel fuel, or gasoline for which such person or entity also paid the fee under this section. For each such gallon, the credit shall be computed based upon the lesser of (i) \$0.06 per gallon or (ii) such fee or tax per gallon imposed by such other state.

D. Except as provided in subsection C, no discount, deduction, or refund shall be allowed on the payment or remittance of the fee imposed under this section.

E. The fee imposed under this section on persons or entities operating a terminal shall be administered, enforced, and collected in the same manner as set forth in Articles 7 (§ 58.1-2263 et seq.) and 8 (§ 58.1-2280 et seq.) of Title 58.1 for the administration, enforcement, and collection of taxes on fuels.

F. All revenues from the fee imposed under this section shall be deposited by the Comptroller into the Transportation Trust Fund established under § 33.1-23.03:1 and allocated pursuant to subsection B of § 33.1-23.03:2.

§ 33.1-221.1:1.1. Rail Enhancement Fund.

A. The General Assembly declares it to be in the public interest that railway preservation and development of railway transportation facilities are an important element of a balanced transportation

system of the Commonwealth for freight and passengers and further declares it to be in the public interest that the retention, maintenance, improvement and development of the railways are essential to the Commonwealth's continued economic growth, vitality, and competitiveness in national and world markets, and there is hereby created in the state treasury a special nonreverting fund to be known as the Rail Enhancement Fund which shall be considered a special fund within the Transportation Trust Fund, hereafter referred to as "the Fund."

B. The Fund shall be established on the books of the Comptroller, and shall consist of dedications pursuant to [subsection B of § 33.1-23.03:2](#), § 58.1-2425, and such funds from other sources as may be set forth in the appropriation act and shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely as provided in this section. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Virginia Department of Rail and Public Transportation or the Director's designee.

C. The Director of the Department of Rail and Public Transportation shall administer and expend or commit, subject to the approval of the Commonwealth Transportation Board, the Fund for 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 freight and/or 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. Prior to recommending an allocation of the Fund to the Commonwealth Transportation Board, the Director of the Department of Rail and Public Transportation shall consult with and obtain the advice and recommendations of the Rail Advisory Board established pursuant to § 33.1-391.3:1.

D. Projects undertaken pursuant to this section shall be limited to those the Commonwealth Transportation Board shall have determined will result in public benefits to the Commonwealth or to a region of the Commonwealth that are equal to or greater than the investment of funds under this section. Such projects shall include a minimum of 30 percent cash or in-kind matching contribution from a

private source, which may include a railroad, a regional authority, or a local government source, or a combination of such sources.

§ 33.1-221.1:1.2. Shortline Railway Preservation and Development Fund.

A. The General Assembly declares it to be in the public interest that shortline railway preservation and development of railway transportation support facilities are important elements of a balanced transportation system of the Commonwealth for freight and passengers, and further declares it to be in the public interest that the retention, maintenance, and improvement of the shortline railway and development of railway transportation support facilities are essential to the Commonwealth's continued economic growth, vitality, and competitiveness in national world markets, and there is hereby created in the state treasury a special nonreverting fund to be known as the Shortline Railway Preservation and Development Fund, hereinafter in this section referred to as "the Fund." A "shortline railway," for the purposes of this section, shall mean any Class II or Class III railroad as defined by the United States Surface Transportation Board. "Railway transportation support facilities," for the purposes of this section, shall mean facilities required for the loading, transfer, or additional track capacity to facilitate the shipment of goods by rail other than as provided for in § 33.1-221.1:1 or 33.1-221.1:1.1.

B. The Fund shall be established on the books of the Comptroller. Any moneys deposited into the Fund pursuant to subsection B of § 33.1-23.03:2 and any other public or private moneys designated for the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely as provided in this section. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Virginia Department of Rail and Public Transportation or the Director's designee.

C. The Director of the Department of Rail and Public Transportation shall administer and expend or commit, subject to the recommendations of the Rail Advisory Committee and the approval of the Commonwealth Transportation Board, the Fund for acquiring, leasing, and/or improving shortline railways and the development of railway transportation support facilities or assisting other appropriate entities to acquire, lease, or improve shortline railways and the development of railway 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. The Director of the Department of Rail and Public Transportation may consult with other agencies or their designated representatives concerning projects to be undertaken under this section.

D. Tracks and facilities constructed, and property and equipment purchased, with funds under this section shall be the property of the Commonwealth for their 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 common carriers using the railway system to which they connect under the trackage rights agreements between the parties. Projects undertaken pursuant to this section shall be limited to those in a region of the Commonwealth or the Commonwealth as a whole. Such projects shall include a minimum of 30% cash or in-kind matching contribution from a private source, which may include a railroad, a regional authority, private industry, or a local government source, or a combination of such sources. No single project shall be allocated more than 50% of total available funds.

§ 46.2-206.1. Imposition of certain additional fees on certain drivers; disposition of revenue.

A. The purpose of the civil remedial fees imposed in this section is to generate revenue from drivers whose proven dangerous driving behavior places significant financial burdens upon the Commonwealth. The civil remedial fees established by this section shall be in addition to any other fees, costs, or penalties imposed pursuant to the Code of Virginia.

B. The civil remedial fees established by this section shall be assessed on any person operating a motor vehicle on the highways of Virginia, including a person to whom a Virginia driver's license, commercial driver's license, or learner's permit has been issued pursuant to this title; a person operating a motor vehicle without a license or whose license has been revoked or suspended; and a person operating a motor vehicle with a license issued by a jurisdiction outside Virginia. For the purposes of this section, a finding of guilty in the case of a juvenile and a conviction under substantially similar laws of any other state or of the United States shall be a conviction.

C. Beginning July 1, 2006, the clerk of the court shall assess a person with a \$200 fee upon each conviction of § 18.2-102 when a violation of this section would be a misdemeanor, § 18.2-323.1, 46.2-300, 46.2-328, 46.2-329, 46.2-335, 46.2-341.7, 46.2-341.10, 46.2-346, 46.2-349, 46.2-371, 46.2-687, 46.2-703, 46.2-704, 46.2-707, 46.2-722, or 46.2-832, § 46.2-894 when a violation of this section would

be a misdemeanor, §§ 46.2-895 through 46.2-897, § 46.2-902.1, 46.2-909, 46.2-921.1, 46.2-1091, 46.2-1104, 46.2-1137, 46.2-1139, 46.2-1163, 46.2-1172, or 46.2-1173, §§ 46.2-1248 through 46.2-1250, § 46.2-1550, 46.2-1556, 46.2-1561, 46.2-1564, 46.2-1565, 46.2-2011.20, 46.2-2099.1, or 46.2-2129.

D. Any person whose driver's record with the Department shows a balance of eight or more driver demerit points on July 15 shall be assessed a fee as set forth below. The Commissioner shall assess such fees annually, beginning on July 15, 2006. The Department shall notify each person assessed a fee under this subsection by mailing a notice thereof by first-class mail addressed to such person's most recent address as shown in the Department's records, and such mailing shall constitute notice to the person of the assessment of the fee. These fees shall be in addition to the fees set forth in subsection C:

1. For a person whose driver's record shows a balance of eight driver demerit points, a fee of \$400 shall be assessed.

2. For a person whose driver's record shows a balance of nine driver demerit points, a fee of \$475 shall be assessed.

3. For a person whose driver's record shows a balance of 10 driver demerit points, a fee of \$550 shall be assessed.

4. For a person whose driver's record shows a balance of 11 driver demerit points, a fee of \$625 shall be assessed.

5. For a person whose driver's record shows a balance of 12 or more driver demerit points, a fee of \$700 shall be assessed.

E. The Department may, by regulation, provide for payment options by which persons assessed fees under this section may pay such fees in installments.

F. If any assessment made under this section remains unpaid 60 days following the date on which the notice of assessment was mailed and no arrangements have been made with the Department for payment of such assessment in installments as authorized herein, the Department shall, pursuant to Article 1 (§ 46.2-300 et seq.) of Chapter 3 of this title, suspend the driver's license of the person against whom the assessment was imposed and the Commissioner may institute civil proceedings in any court of competent jurisdiction to recover any such fees. Jurisdiction for assessments under this section shall be in the jurisdiction where the person resides as indicated in the records of the Department. The

Commissioner shall be entitled to collect all costs of collection, including but not limited to attorney fees.

G. In the event that a person disputes a conviction on his driver record based upon identity, if the person presents the Department a certified copy of a petition to a court of competent jurisdiction seeking to vacate an order of such conviction, the Department shall suspend the imposition of the assessment. Such suspension shall be valid for one year from the date of commencement or until 30 days after an entry of a final order on such petition, whichever first occurs.

H. The clerk of the court shall return revenues collected pursuant to subsection C to the state treasury for deposit by the Comptroller into the Transportation Trust Fund established under § 33.1-23.03:1, and the Comptroller shall deposit revenues generated under subsection D into said Fund. Revenues deposited into the Transportation Trust Fund pursuant to this section shall be allocated pursuant to subsection B of § 33.1-23.03:2. For the revenues generated pursuant to subsection D, the Commissioner of the Department of Motor Vehicles shall make such written certifications as are necessary for the Comptroller to make the required deposits into the Transportation Trust Fund as soon as practicable.

§ 46.2-694. Fees for vehicles designed and used for transportation of passengers; weights used for computing fees; burden of proof.

A. The annual registration fees for motor vehicles, trailers, and semitrailers designed and used for the transportation of passengers on the highways in the Commonwealth are:

1. ~~Twenty-three~~ Thirty-three dollars for each private passenger car or motor home if the passenger car or motor home weighs 4,000 pounds or less, provided that it is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

2. ~~Twenty-eight~~ Thirty-eight dollars for each passenger car or motor home which weighs more than 4,000 pounds, provided that it is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

3. Thirty cents per 100 pounds or major fraction thereof for a private motor vehicle other than a motorcycle with a normal seating capacity of more than 10 adults including the driver if the private motor vehicle is not used for the transportation of passengers for compensation and is not kept or used

for rent or for hire or is not operated under a lease without a chauffeur. In no case shall the fee be less than ~~\$23~~ \$33 if the vehicle weighs 4,000 pounds or less or ~~\$28~~ \$38 if the vehicle weighs more than 4,000 pounds.

4. Thirty cents per 100 pounds or major fraction thereof for a school bus. In no case shall the fee be less than ~~\$23~~ \$33 if the vehicle weighs 4,000 pounds or less or ~~\$28~~ \$38 if the vehicle weighs more than 4,000 pounds.

5. ~~Twenty-three~~ Thirty-three dollars for each trailer or semitrailer designed for use as living quarters for human beings.

6. ~~Thirteen~~ Twenty-three dollars plus \$ 0.30 per 100 pounds or major fraction thereof for each motor vehicle, trailer, or semitrailer used as a common carrier of passengers, operating either intrastate or interstate. Interstate common carriers of interstate passengers may elect to be licensed and pay the fees prescribed in subdivision 7 of this subsection on submission to the Commissioner of a declaration of operations and equipment as he may prescribe. An additional \$5 shall be charged if the motor vehicle weighs more than 4,000 pounds.

7. ~~Thirteen~~ Twenty-three dollars plus \$ 0.70 per 100 pounds or major fraction thereof for each motor vehicle, trailer, or semitrailer used as a common carrier of interstate passengers if election is made to be licensed under this subsection. An additional \$5 shall be charged if the motor vehicle weighs more than 4,000 pounds. In lieu of the foregoing fee of \$ 0.70 per 100 pounds, a motor carrier of passengers, operating two or more vehicles both within and outside the Commonwealth and registered for insurance purposes with the Surface Transportation Board of the United States Department of Transportation, Federal Highway Administration, may apply to the Commissioner for prorated registration. Upon the filing of such application, in such form as the Commissioner may prescribe, the Commissioner shall apportion the registration fees provided in this subsection so that the total registration fees to be paid for such vehicles of such carrier shall be that proportion of the total fees, if there were no apportionment, that the total number of miles traveled by such vehicles of such carrier within the Commonwealth bears to the total number of miles traveled by such vehicles within and outside the Commonwealth. Such total mileage in each instance is the estimated total mileage to be traveled by such vehicles during the license year for which such fees are paid, subject to the adjustment in accordance with an audit to be made by representatives of the Commissioner at the end of such license year, the expense of such audit to be

borne by the carrier being audited. Each vehicle passing into or through Virginia shall be registered and licensed in Virginia and the annual registration fee to be paid for each such vehicle shall not be less than ~~\$33~~ \$43. For the purpose of determining such apportioned registration fees, only those motor vehicles, trailers, or semitrailers operated both within and outside the Commonwealth shall be subject to inclusion in determining the apportionment provided for herein.

8. ~~Thirteen~~ Twenty-three dollars plus \$ 0.80 per 100 pounds or major fraction thereof for each motor vehicle, trailer or semitrailer kept or used for rent or for hire or operated under a lease without a chauffeur for the transportation of passengers. An additional fee of \$5 shall be charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.

9. ~~Twenty-three~~ Thirty-three dollars for a taxicab or other vehicle which is kept for rent or hire operated with a chauffeur for the transportation of passengers, and which operates or should operate under permits issued by the Department as required by law. An additional fee of \$5 shall be charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.

10. ~~Eighteen~~ Twenty-eight dollars for a motorcycle, with or without a sidecar. To this fee shall be added a surcharge of \$3 which shall be distributed as provided in § 46.2-1191.

11. ~~Twenty-three~~ Thirty-three dollars for a bus used exclusively for transportation to and from church school, for the purpose of religious instruction, or church, for the purpose of divine worship. If the empty weight of the vehicle exceeds 4,000 pounds, the fee shall be ~~\$28~~ \$38.

12. ~~Thirteen~~ Twenty-three dollars plus \$ 0.70 per 100 pounds or major fraction thereof for other passenger-carrying vehicles.

13. An additional fee of \$4 per year shall be charged and collected at the time of registration of each pickup or panel truck and each motor vehicle under subdivisions 1 through 12 of this subsection. All funds collected pursuant to this subdivision shall be paid into the state treasury and shall be set aside as a special fund to be used only for emergency medical service purposes. The moneys in the special fund shall be distributed as follows:

a. Two percent shall be distributed to the State Department of Health to provide funding to the Virginia Association of Volunteer Rescue Squads to be used solely for the purpose of conducting volunteer recruitment, retention and training activities;

b. Thirty percent shall be distributed to the State Department of Health to support (i) emergency medical services training programs (excluding advanced life support classes); (ii) advanced life support training; (iii) recruitment and retention programs (all funds for such support shall be used to recruit and retain volunteer emergency medical services personnel only, including public awareness campaigns, technical assistance programs, and similar activities); (iv) emergency medical services system development, initiatives, and priorities based on needs identified by the State Emergency Medical Services Advisory Board; (v) local, regional, and statewide performance contracts for emergency medical services to meet the objectives stipulated in § 32.1-111.3; (vi) technology and radio communication enhancements; and (vii) improved emergency preparedness and response. Any funds set aside for distribution under this provision and remaining undistributed at the end of any fiscal year shall revert to the Rescue Squad Assistance Fund;

c. Thirty-two percent shall be distributed to the Rescue Squad Assistance Fund;

d. Ten percent shall be available to the State Department of Health's Office of Emergency Medical Services for use in emergency medical services; and

e. Twenty-six percent shall be returned by the Comptroller to the locality wherein such vehicle is registered, to provide funding for training of volunteer or salaried emergency medical service personnel of licensed, nonprofit emergency medical services agencies and for the purchase of necessary equipment and supplies for use in such locality for licensed, nonprofit emergency medical and rescue services.

The Comptroller shall clearly designate on the warrant, check, or other means of transmitting these funds that such moneys are only to be used for purposes set forth in this subdivision. Such funds shall be in addition to any local appropriations and local governing bodies shall not use these funds to supplant local funds. Each local governing body shall report annually to the Board of Health on the use of the funds returned to it pursuant to this section. In any case in which the local governing body grants the funds to a regional emergency medical services council to be distributed to the licensed, nonprofit emergency medical and rescue services, the local governing body shall remain responsible for the proper use of the funds. If, at the end of any fiscal year, a report on the use of the funds returned to the locality pursuant to this section for that year has not been received from a local governing body, any funds due to that local governing body for the next fiscal year shall be retained until such time as the report has been submitted to the Board.

B. All motor vehicles, trailers, and semitrailers registered as provided in subsection B of § 46.2-646 shall pay a registration fee equal to one-twelfth of all fees required by subsection A of this section or § 46.2-697 for such motor vehicle, trailer, or semitrailer, computed to the nearest cent, multiplied by the number of months in the registration period for such motor vehicles, trailers, and semitrailers.

C. The manufacturer's shipping weight or scale weight shall be used for computing all fees required by this section to be based upon the weight of the vehicle.

D. The applicant for registration bears the burden of proof that the vehicle for which registration is sought is entitled by weight, design, and use to be registered at the fee tendered by the applicant to the Commissioner or to his authorized agent.

§ 46.2-694.1. Fees for trailers and semitrailers not designed and used for transportation of passengers.

Unless otherwise specified in this title, the registration fees for trailers and semitrailers not designed and used for the transportation of passengers on the highways in the Commonwealth shall be as follows:

Registered Gross Weight	1-Year Fee	2-Year Fee	Permanent Fee
0-1,500 lbs	<del>\$8.00</del> <u>\$18</u>	<del>\$16.00</del> <u>\$26</u>	<del>\$50.00</del> <u>\$60</u>
1,501-4,000 lbs	<del>\$18.50</del> <u>\$28.50</u>	<del>\$37.00</del> <u>\$47</u>	<del>\$50.00</del> <u>\$60</u>
4,001 lbs & above	<del>\$23.50</del> <u>\$33.50</u>	<del>\$47.00</del> <u>\$57</u>	<del>\$50.00</del> <u>\$60</u>

From the foregoing registration fees, the following amounts, regardless of weight category, shall be paid by the Department into the state treasury and set aside for the payment of the administrative costs of the safety inspection program provided for in Article 21 (§ 46.2-1157 et seq.) of Chapter 10 of this title: (i) from each one-year registration fee, one dollar and fifty cents; (ii) from each two-year registration fee, three dollars; and (iii) from each permanent registration fee, four dollars.

§ 46.2-697. Fees for vehicles not designed or used for transportation of passengers.

A. Except as otherwise provided in this section, the fee for registration of all motor vehicles not designed and used for the transportation of passengers shall be ~~thirteen dollars~~ \$23 plus an amount determined by the gross weight of the vehicle or combination of vehicles of which it is a part, when loaded to the maximum capacity for which it is registered and licensed, according to the schedule of fees set forth in this section. For each 1,000 pounds of gross weight, or major fraction thereof, for which any such vehicle is registered, there shall be paid to the Commissioner the fee indicated in the following schedule immediately opposite the weight group and under the classification established by the

provisions of subsection B of § 46.2-711 into which such vehicle, or any combination of vehicles of which it is a part, falls when loaded to the maximum capacity for which it is registered and licensed. The fee for a pickup or panel truck shall be ~~twenty-three dollars~~ \$33 if its gross weight is 4,000 pounds or less, and ~~twenty-eight dollars~~ \$38 if its gross weight is 4,001 pounds through 6,500 pounds. The fee shall be ~~twenty-nine dollars~~ \$39 for any motor vehicle with a gross weight of 6,501 pounds through 10,000 pounds.

Fee Per Thousand Pounds of Gross Weight		
Gross Weight Groups (pounds)	Private Carriers	For Rent or For Hire Carriers
10,001 - 11,000	<del>2.60</del> <u>3.17</u>	<del>4.75</del> <u>5.80</u>
11,001 - 12,000	<del>2.80</del> <u>3.42</u>	<del>4.90</del> <u>5.98</u>
12,001 - 13,000	<del>3.00</del> <u>3.66</u>	<del>5.15</del> <u>6.28</u>
13,001 - 14,000	<del>3.20</del> <u>3.90</u>	<del>5.40</del> <u>6.59</u>
14,001 - 15,000	<del>3.40</del> <u>4.15</u>	<del>5.65</del> <u>6.89</u>
15,001 - 16,000	<del>3.60</del> <u>4.39</u>	<del>5.90</del> <u>7.20</u>
16,001 - 17,000	<del>4.00</del> <u>4.88</u>	<del>6.15</del> <u>7.50</u>
17,001 - 18,000	<del>4.40</del> <u>5.37</u>	<del>6.40</del> <u>7.81</u>
18,001 - 19,000	<del>4.80</del> <u>5.86</u>	<del>7.50</del> <u>9.15</u>
19,001 - 20,000	<del>5.20</del> <u>6.34</u>	<del>7.70</del> <u>9.39</u>
20,001 - 21,000	<del>5.60</del> <u>6.83</u>	<del>7.90</del> <u>9.64</u>
21,001 - 22,000	<del>6.00</del> <u>7.32</u>	<del>8.10</del> <u>9.88</u>
22,001 - 23,000	<del>6.40</del> <u>7.81</u>	<del>8.30</del> <u>10.13</u>
23,001 - 24,000	<del>6.80</del> <u>8.30</u>	<del>8.50</del> <u>10.37</u>
24,001 - 25,000	<del>6.90</del> <u>8.42</u>	<del>8.70</del> <u>10.61</u>
25,001 - 26,000	<del>6.95</del> <u>8.48</u>	<del>8.90</del> <u>10.86</u>
26,001 - 27,000	<del>8.25</del> <u>10.07</u>	<del>10.35</del> <u>12.63</u>
27,001 - 28,000	<del>8.30</del> <u>10.13</u>	<del>10.55</del> <u>12.87</u>
28,001 - 29,000	<del>8.35</del> <u>10.18</u>	<del>10.75</del> <u>13.12</u>
29,001 - 40,000	<del>8.45</del> <u>10.31</u>	<del>10.95</del> <u>13.36</u>
40,001 - 45,000	<del>8.55</del> <u>10.43</u>	<del>11.15</del> <u>13.60</u>
45,001 - 50,000	<del>8.75</del> <u>10.68</u>	<del>11.25</del> <u>13.73</u>
50,001 - 55,000	<del>9.25</del> <u>11.29</u>	<del>13.25</del> <u>16.17</u>
55,001 - 76,000	<del>11.25</del> <u>13.73</u>	<del>15.25</del> <u>18.61</u>
76,001 - 80,000	<del>13.25</del> <u>16.17</u>	<del>16.25</del> <u>19.83</u>

For all such motor vehicles exceeding a gross weight of 6,500 pounds, an additional fee of five dollars shall be imposed.

B. In lieu of registering any motor vehicle referred to in this section for an entire licensing year, the owner may elect to register the vehicle only for one or more quarters of a licensing year, and in such case, the fee shall be twenty-five percent of the annual fee plus five dollars for each quarter that the vehicle is registered.

C. When an owner elects to register and license a motor vehicle under subsection B of this section, the provisions of §§ 46.2-646 and 46.2-688 shall not apply.

D. Notwithstanding any other provision of law, no vehicle designed, equipped, and used to tow disabled or inoperable motor vehicles shall be required to register in accordance with any gross weight other than the gross weight of the towing vehicle itself, exclusive of any vehicle being towed.

E. All registrations and licenses issued for less than a full year shall expire on the date shown on the license and registration.

§ 46.2-698. Fees for farm vehicles.

A. The fees for registration of farm motor vehicles having gross weights of 7,500 pounds or more, when such vehicles are used exclusively for farm use as defined in this section, shall be one-half of the fee per 1,000 pounds of gross weight for private carriers as calculated under the provisions of § 46.2-697 and one-half of the fee for overload permits under § 46.2-1128, but the annual registration fee to be paid for each farm vehicle shall not be less than ~~\$15~~ \$25.

B. A farm motor vehicle is used exclusively for farm use:

1. When owned by a person who is engaged either as an owner, renter, or operator of a farm of a size reasonably requiring the use of such vehicle or vehicles and when such vehicle is:

a. Used in the transportation of agricultural products of the farm he is working to market, or to other points for sale or processing, or when used to transport materials, tools, equipment, or supplies which are to be used or consumed on the farm he is working, or when used for any other transportation incidental to the regular operation of such farm;

b. Used in transporting forest products, including forest materials originating on a farm or incident to the regular operation of a farm, to the farm he is working or transporting for any purpose forest products which originate on the farm he is working; or

c. Used in the transportation of farm produce, supplies, equipment, or materials to a farm not worked by him, pursuant to a mutual cooperative agreement.

2. When the nonfarm use of such motor vehicle is limited to the personal use of the owner and his immediate family in attending church or school, securing medical treatment or supplies, or securing other household or family necessities.

C. As used in this section, the term "farm" means one or more areas of land used for the production, cultivation, growing, or harvesting of agricultural products, but does not include a tree farm that is not also a nursery or Christmas tree farm, unless it is part of what otherwise is a farm. As used in this section, the term "agricultural products" means any nursery plants; Christmas trees; horticultural, viticultural, and other cultivated plants and crops; aquaculture; dairy; livestock; poultry; bee; or other farm products.

D. The first application for registration of a vehicle under this section shall be made on forms provided by the Department and shall include:

1. The location and acreage of each farm on which the vehicle to be registered is to be used;
2. The type of agricultural commodities, poultry, dairy products or livestock produced on such farms and the approximate amounts produced annually;
3. A statement, signed by the vehicle's owner, that the vehicle to be registered will only be used for one or more of the purposes specified in subsection B of this section; and
4. Other information required by the Department.

The above information is not required for the renewal of a vehicle's registration under this section.

E. The Department shall issue appropriately designated license plates for those motor vehicles registered under this section. The manner in which such license plates are designated shall be at the discretion of the Commissioner.

F. The owner of a farm vehicle shall inform the Commissioner within 30 days or at the time of his next registration renewal, whichever comes first, when such vehicle is no longer used exclusively for farm use as defined in this section, and shall pay the appropriate registration fee for the vehicle based on its type of operation. It shall constitute a Class 2 misdemeanor to: (i) operate or to permit the operation of any farm motor vehicle for which the fee for registration and license plates is herein prescribed on any highway in the Commonwealth without first having paid the prescribed registration fee; or (ii) operate or permit the operation of any motor vehicle, registered under this section, for purposes other than as provided under subsection B of this section; or (iii) operate as a for-hire vehicle.

G. Nothing in this section shall affect the exemptions of agricultural and horticultural vehicles under §§ 46.2-664 through 46.2-670.

H. Notwithstanding other provisions of this section, vehicles licensed under this section may be used by volunteer rescue squad members and volunteer firefighters in responding to emergency calls, in reporting for regular duty, and in attending squad meetings and drills.

§ 46.2-700. Fees for vehicles for transporting well-drilling machinery and specialized mobile equipment.

A. The fee for registration of any motor vehicle, trailer, or semitrailer on which well-drilling machinery is attached and which is permanently used solely for transporting the machinery shall be ~~\$15~~ \$25.

B. The fee for the registration of specialized mobile equipment shall be ~~\$15~~ \$25. "Specialized mobile equipment" shall mean any self-propelled motor vehicle manufactured for a specific purpose, other than for the transportation of passengers or property, which is used on a job site and whose movement on any highway is incidental to the purpose for which it was designed and manufactured. The vehicle must be constructed to fall within all size and weight requirements as contained in §§ 46.2-1105, 46.2-1110, 46.2-1113 and Article 17 (§ 46.2-1122 et seq.) of Chapter 10 of this title and must be capable of maintaining sustained highway speeds of 40 miles per hour or more. Vehicles registered under this section shall be exempt from the requirements of § 46.2-1157. Nothing in this subsection shall be construed as prohibiting the transportation on specialized mobile equipment of safety equipment, including but not limited to highway traffic safety cones, to be used on a job site.

C. Specialized mobile equipment which cannot maintain a sustained highway speed in excess of 40 miles per hour, and trailers or semitrailers which are designed and manufactured for a specific purpose and whose movement on the highway is incidental to the purpose for which it was manufactured and which are not designed or used to transport persons or property, shall not be required to be registered under this chapter.

§ 46.2-702.1. Distribution of certain revenue.

An amount equivalent to the net additional revenues generated by increases in the registration fees under §§ 46.2-694, 46.2-694.1, 46.2-697, 46.2-698, 46.2-700, and 46.2-730 pursuant to enactments of a Session of the General Assembly held in 2006, shall be deposited by the Comptroller into the Transportation Trust Fund established under § 33.1-23.03:1 and allocated pursuant to subsection B of § 33.1-23.03:2.

§ 46.2-730. License plates for antique motor vehicles and antique trailers; fee.

A. On receipt of an application, the Commissioner shall issue appropriately designed license plates to owners of antique motor vehicles and antique trailers. These license plates shall be valid so long as title to the vehicle is vested in the applicant. The fee for the registration card and license plates of any of these vehicles shall be ~~\$10~~ \$20.

B. On receipt of an application, the Commissioner may authorize for use on antique motor vehicles and antique trailers Virginia license plates manufactured prior to 1976 and designed for use without decals, if such license plates are embossed with or are of the same year of issue as the model year of the antique motor vehicle or antique trailer on which they are to be displayed. Original metal year tabs issued in place of license plates for years 1943 and 1953 and used with license plates issued in 1942 and 1952, respectively, also may be authorized by the Commissioner for use on antique motor vehicles and antique trailers that are of the same model year as the year the metal tab was originally issued. These license plates and metal tabs shall remain valid so long as title to the vehicle is vested in the applicant. The fee for the registration card and permission to use the license plates and metal tabs on any of these vehicles shall be ~~\$10~~ \$20.

C. Notwithstanding the provisions of §§ 46.2-711 and 46.2-715, antique motor vehicles may display single license plates if the original manufacturer's design of the antique motor vehicles allows for the use of only single license plates or if the license plate was originally issued in one of the following years and is displayed in accordance with the provisions of subsection B of this section: 1906, 1907, 1908, 1909, 1945, or 1946.

D. Except as provided in subsection E of this section, motor vehicles and trailers registered with license plates issued under this section shall not be used for general transportation purposes, including, but not limited to, daily travel to and from the owner's place of employment, but shall only be used:

1. For participation in club activities, exhibits, tours, parades, and similar events; and
2. On the highways of the Commonwealth for the purpose of testing their operation, obtaining repairs or maintenance, transportation to and from events as described in subdivision 1 of this subsection, and for occasional pleasure driving not exceeding 250 miles from the residence of the owner.

E. Notwithstanding the foregoing provision of this section, antique motor vehicles and antique trailers displaying license plates issued pursuant to subsections B and C of this section may be used for general transportation purposes if the following conditions are met:

1. The physical condition of the vehicle's license plate or plates has been inspected and approved by the Department;
2. The license plate or plates are registered to the specific vehicle by the Department;
3. The owner of the vehicle periodically registers the vehicle with the Department and pays a registration fee for the vehicle equal to that which would be charged to obtain regular state license plates for that vehicle;
4. The vehicle passes a periodic safety inspection as provided in Article 21 (§ 46.2-1157 et seq.) of Chapter 10 of this title;
5. The vehicle displays current decals attached to the license plate, issued by the Department, indicating the valid registration period for the vehicle; and
6. When applicable, the vehicle meets the requirement of Article 22 (§ 46.2-1176 et seq.) of Chapter 10 of this title.

If more than one request is made for use, as provided in this subsection, of license plates having the same number, the Department shall accept only the first such application. Only vehicles titled to the person seeking to use license plates as provided in this subsection shall be eligible to use license plates as provided in this subsection.

F. Nothing in this section shall be construed as prohibiting the use of an antique motor vehicle to tow a trailer or semitrailer.

§ 46.2-752. Taxes and license fees imposed by counties, cities, and towns; limitations on amounts; disposition of revenues; requiring evidence of payment of personal property taxes and certain fines; prohibiting display of licenses after expiration; failure to display valid local license required by other localities; penalty.

A. Except as provided in § 46.2-755, counties, cities, and towns may levy and assess taxes and charge license fees on motor vehicles, trailers, and semitrailers. However, none of these taxes and license fees shall be assessed or charged by any county on vehicles owned by residents of any town located in the county when such town constitutes a separate school district if the vehicles are already

subject to town license fees and taxes, nor shall a town charge a license fee to any new resident of the town, previously a resident of a county within which all or part of the town is situated, who has previously paid a license fee for the same tax year to such county. The amount of the license fee or tax imposed by any county, city, or town on any motor vehicle, trailer, or semitrailer shall not be greater than the amount of the license tax imposed by the Commonwealth on the motor vehicle, trailer, or semitrailer. The license fees and taxes shall be imposed in such manner, on such basis, for such periods, and subject to proration for fractional periods of years, as the proper local authorities may determine. Local licenses may be issued free of charge for any or all of the following:

1. Vehicles powered by clean special fuels as defined in § 46.2-749.3, including dual-fuel and bi-fuel vehicles,
2. Vehicles owned by volunteer rescue squads,
3. Vehicles owned by volunteer fire departments,
4. Vehicles owned or leased by active members or active auxiliary members of volunteer rescue squads,
5. Vehicles owned or leased by active members or active auxiliary members of volunteer fire departments,
6. Vehicles owned or leased by auxiliary police officers,
7. Vehicles owned or leased by volunteer police chaplains,
8. Vehicles owned by surviving spouses of persons qualified to receive special license plates under § 46.2-739,
9. Vehicles owned or leased by auxiliary deputy sheriffs or volunteer deputy sheriffs,
10. Vehicles owned by persons qualified to receive special license plates under § 46.2-739,
11. Vehicles owned by any of the following who served at least 10 years in the locality: former members of volunteer rescue squads, former members of volunteer fire departments, former auxiliary police officers, former volunteer police chaplains, and former volunteer special police officers appointed under § 15.2-1737. In the case of active members of volunteer rescue squads and volunteer fire departments, applications for such licenses shall be accompanied by written evidence, in a form acceptable to the locality, of their active membership, and no member shall be issued more than one such license free of charge, or

12. All vehicles having a situs for the imposition of licensing fees under this section in the locality.

The governing body of any county, city, or town issuing licenses under this section may by ordinance provide for a 50 percent reduction in the fee charged for the issuance of any such license issued for any vehicle owned or leased by any person who is 65 years old or older. No such discount, however, shall be available for more than one vehicle owned or leased by the same person.

The governing body of any county, city, or town issuing licenses free of charge under this subsection may by ordinance provide for (i) the limitation, restriction, or denial of such free issuance to an otherwise qualified applicant, including without limitation the denial of free issuance to a taxpayer who has failed to timely pay personal property taxes due with respect to the vehicle and (ii) the grounds for such limitation, restriction, or denial.

The situs for the imposition of licensing fees under this section shall in all cases, except as hereinafter provided, be the county, city, or town in which the motor vehicle, trailer, or semitrailer is normally garaged, stored, or parked. If it cannot be determined where the personal property is normally garaged, stored, or parked, the situs shall be the domicile of its owner. In the event the owner of the motor vehicle is a full-time student attending an institution of higher education, the situs shall be the domicile of such student, provided the student has presented sufficient evidence that he has paid a personal property tax on the motor vehicle in his domicile.

B. The Except as provided in this subsection, subsection L, and § 46.2-753, all revenue derived from all county, city, or town taxes and license fees imposed on motor vehicles, trailers, or semitrailers shall be applied to general county, city, or town purposes. However, if a county, city, or town imposes a license fee or tax pursuant to this section in excess of the maximum amount authorized as of June 30, 2006, an amount approximately equal to one-half of the revenues collected by the county, city, or town that are attributable to the increase in such fee or tax above such maximum amount shall be used by the county, city, or town for local or regional projects directly relating to transportation, including debt service payments on any obligations authorized and issued on or after July 1, 2006.

C. A county, city, or town may require that no motor vehicle, trailer, or semitrailer shall be locally licensed until the applicant has produced satisfactory evidence that all personal property taxes on the motor vehicle, trailer, or semitrailer to be licensed have been paid and satisfactory evidence that any

delinquent motor vehicle, trailer, or semitrailer personal property taxes owing have been paid which have been properly assessed or are assessable against the applicant by the county, city, or town. A county, city, or town may also provide that no motor vehicle license shall be issued unless the tangible personal property taxes properly assessed or assessable by that locality on any tangible personal property used or usable as a dwelling titled by the Department of Motor Vehicles and owned by the taxpayer have been paid. Any county and any town within any such county may by agreement require that all personal property taxes assessed by either the county or the town on any vehicle be paid before licensure of such vehicle by either the county or the town.

C1. Any county having a population of at least 24,000, but no more than 24,600, or having a population of at least 39,550, but no more than 41,550, may, by ordinance or resolution adopted after public notice and hearing and, with the consent of the treasurer, require that no license may be issued under this section unless the applicant has produced satisfactory evidence that all fees, including delinquent fees, payable to such county or local solid waste authority, for the disposal of solid waste pursuant to the Virginia Water and Waste Authorities Act (§ 15.2-5100 et seq.), or pursuant to § 15.2-2159, have been paid in full. For purposes of this subsection, all fees, including delinquent fees, payable to a county for waste disposal services described herein, shall be paid to the treasurer of such county; however, in any county with a population between 39,550 and 41,550, the fee shall be paid to the county or its agent.

D. The Counties of Arlington, Fairfax, Loudoun, and Prince William and towns within them and any city may require that no motor vehicle, trailer, or semitrailer shall be licensed by that jurisdiction unless all fines owed to the jurisdiction by the owner of the vehicle, trailer, or semitrailer for violation of the jurisdiction's ordinances governing parking of vehicles have been paid. The provisions of this subsection shall not apply to vehicles owned by firms or companies in the business of renting motor vehicles.

E. If in any county imposing license fees and taxes under this section, a town therein imposes like fees and taxes on vehicles of owners resident in the town, the owner of any vehicle subject to the fees or taxes shall be entitled, on the owner's displaying evidence that he has paid the fees or taxes, to receive a credit on the fees or taxes imposed by the county to the extent of the fees or taxes he has paid to the town. Nothing in this section shall deprive any town now imposing these licenses and taxes from

increasing them or deprive any town not now imposing them from hereafter doing so, but subject to the limitations provided in subsection D of this section. The governing body of any county and the governing body of any town in that county wherein each imposes the license tax herein provided may provide mutual agreements so that not more than one license plate or decal in addition to the state plate shall be required.

F. Notwithstanding the provisions of subsection E of this section, in a consolidated county wherein a tier-city exists, the tier-city may, in accordance with the provisions of the agreement or plan of consolidation, impose license fees and taxes under this section in addition to those fees and taxes imposed by the county, provided that the combined county and tier-city rates do not exceed the maximum provided in subsection A of this section. No credit shall be allowed on the fees or taxes imposed by the county for fees or taxes paid to the tier-city, except as may be provided by the consolidation agreement or plan. The governing body of any county and the governing body of any tier-city in such county wherein each imposes the license tax herein may provide by mutual agreement that no more than one license plate or decal in addition to the state license plate shall be required.

G. Any county, city, or town may by ordinance provide that it shall be unlawful for any owner or operator of a motor vehicle, trailer, or semitrailer to fail to obtain and display the local license required by any ordinance of the county, city or town in which the vehicle is registered or to display upon a motor vehicle, trailer, or semitrailer any such local license after its expiration date. The ordinance may provide that a violation shall constitute a misdemeanor the penalty for which shall not exceed that of a Class 4 misdemeanor and may, in the case of a motor vehicle registered to a resident of the locality where such vehicle is registered, authorize the issuance by local law-enforcement officers of citations, summonses, parking tickets, or uniform traffic summonses for violations. Any such ordinance may also provide that a violation of the ordinance by the registered owner of the vehicle may not be discharged by payment of a fine except upon presentation of satisfactory evidence that the required license has been obtained.

H. Except as provided by subsections E and F, no vehicle shall be subject to taxation under the provisions of this section in more than one jurisdiction.

I. Purchasers of new or used motor vehicles shall be allowed at least a 10-day grace period, beginning with the date of purchase, during which to pay license fees charged by local governments under authority of this section.

J. Beginning October 1, 1992, the treasurer or director of finance of any county, city, or town may enter into an agreement with the Commissioner whereby the Commissioner will refuse to issue or renew any vehicle registration of any applicant therefor who owes to such county, city or town any local vehicle license fees or delinquent tangible personal property tax or parking citations issued only to residents of such county, city, or town. Before being issued any vehicle registration or renewal of such license or registration by the Commissioner, the applicant shall first satisfy all such local vehicle license fees and delinquent taxes or parking citations and present evidence satisfactory to the Commissioner that all such local vehicle license fees and delinquent taxes or parking citations have been paid in full. The Commissioner shall charge a reasonable fee to cover the costs of such enforcement action, and the treasurer or director of finance may add the cost of this fee to the delinquent tax bill or the amount of the parking citation. The treasurer or director of finance of any county, city, or town seeking to collect delinquent taxes or parking citations through the withholding of registration or renewal thereof by the Commissioner as provided for in this subsection shall notify the Commissioner in the manner provided for in his agreement with the Commissioner and supply to the Commissioner information necessary to identify the debtor whose registration or renewal is to be denied. Any agreement entered into pursuant to the provisions of this subsection shall provide the debtor notice of the intent to deny renewal of registration at least 30 days prior to the expiration date of a current vehicle registration. For the purposes of this subsection, notice by first-class mail to the registrant's address as maintained in the records of the Department of Motor Vehicles shall be deemed sufficient. In the case of parking violations, the Commissioner shall only refuse to issue or renew the vehicle registration of any applicant therefor pursuant to this subsection for the vehicle that incurred the parking violations. The provisions of this subsection shall not apply to vehicles owned by firms or companies in the business of renting motor vehicles.

K. The governing bodies of any two or more counties, cities, or towns may enter into compacts for the regional enforcement of local motor vehicle license requirements. The governing body of each participating jurisdiction may by ordinance require the owner or operator of any motor vehicle, trailer,

or semitrailer to display on his vehicle a valid local license issued by another county, city, or town that is a party to the regional compact, provided that the owner or operator is required by the jurisdiction of situs, as provided in § 58.1-3511, to obtain and display such license. The ordinance may also provide that no motor vehicle, trailer, or semitrailer shall be locally licensed until the applicant has produced satisfactory evidence that (i) all personal property taxes on the motor vehicle, trailer, or semitrailer to be licensed have been paid to all participating jurisdictions and (ii) any delinquent motor vehicle, trailer, or semitrailer personal property taxes that have been properly assessed or are assessable by any participating jurisdiction against the applicant have been paid. Any city and any county having the urban county executive form of government, the counties adjacent to such county and towns within them may require that no motor vehicle, trailer, or semitrailer shall be licensed by that jurisdiction or any other jurisdiction in the compact unless all fines owed to any participating jurisdiction by the owner of the vehicle for violation of any participating jurisdiction's ordinances governing parking of vehicles have been paid. The ordinance may further provide that a violation shall constitute a misdemeanor the penalty for which shall not exceed that of a Class 4 misdemeanor. Any such ordinance may also provide that a violation of the ordinance by the owner of the vehicle may not be discharged by payment of a fine except upon presentation of satisfactory evidence that the required license has been obtained. The provisions of this subsection shall not apply to vehicles owned by firms or companies in the business of renting motor vehicles.

L. In addition to the taxes and license fees permitted in subsection A, counties, cities, and towns may charge a license fee of no more than \$1 per motor vehicle, trailer, and semitrailer. Except for the provisions of subsection B, such fee shall be subject to all other provisions of this section. All funds collected pursuant to this subsection shall be paid pursuant to § 51.1-1204 to the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund to the accounts of all members of the Fund who are volunteers for fire departments or rescue squads within the jurisdiction of the particular county, city, or town.

§ 46.2-753. Additional license fees in certain localities.

Notwithstanding any other provision of law, the governing bodies of Alexandria, Arlington, Fairfax County, Fairfax City, and Falls Church are authorized to charge annual license fees, in addition to those specified in § 46.2-752, on passenger cars not used for the transportation of passengers for

compensation. The additional fee shall be no more than five dollars. The total local license fee shall be no more than ~~twenty-five dollars~~ \$35 on any vehicle and this license fee shall not be imposed on any motor vehicle exempted under § 46.2-739.

The governing bodies are also authorized to charge additional annual license fees on the motor vehicles, trailers, and semitrailers as specified in § 46.2-697 in an amount of no more than five dollars for each such vehicle. This authorization shall not increase the maximum chargeable by more than five dollars or affect any existing exemption.

Any funds acquired in excess of those allowed by § 46.2-752, shall be allocated to the Northern Virginia Transportation Commission to be a credit to that jurisdiction making the payment for its share of any operating deficit assigned to it by the Washington Metropolitan Area Transit Authority. However, if any of such counties or cities charge a license fee pursuant to this section that is in excess of the maximum amount authorized as of June 30, 2006, an amount approximately equal to one-half of the revenues collected by the county or city that is attributable to the increase in such license fee above such maximum amount shall be used by the county or city for local or regional projects directly relating to transportation, including debt service payments on any obligations authorized and issued on or after July 1, 2006.

§ 46.2-1135. Liquidated damages for violation of weight limits.

A. Any person violating any weight limit as provided in this chapter or in any permit issued pursuant to Article 18 (§ 46.2-1139 et seq.) of this chapter by the Department or its designee or by local authorities pursuant to this chapter shall be assessed liquidated damages. The amount of those damages shall be:

Excess weight over the prescribed or permitted axle weight limits	Assessed amount per pound
<del>4,000 pounds or less</del>	<del>1</del>
<u>2,000 pounds or less</u>	<u>5 cents per pound</u>
<u>2,001 to 4,000 pounds</u>	<u>10 cents per pound</u>
4,001 to 8,000 pounds	<del>10</del> <u>15 cents</u> per pound
8,001 to 12,000 pounds	<del>20</del> <u>25 cents</u> per pound
12,001 pounds or more	<del>30</del> <u>35 cents</u> per pound

Excess weight over the prescribed gross weight limit	Assessed amount per pound
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<del>4,000 pounds or less</del>	<del>1</del>	<del>per pound</del>
<del>4,001 to 8,000 pounds</del>	<del>5</del>	<del>per pound</del>
<u>2,000 pounds or less</u>	<u>5</u>	<u>cents per pound</u>
<u>2,001 to 8,000 pounds</u>	<u>10</u>	<u>cents per pound</u>
8,001 to 12,000 pounds	<del>10</del> <u>15</u>	cents per pound
12,001 pounds or more	<del>15</del> <u>20</u>	cents per pound

All gross permit violations shall be assessed \$.20 per pound over the permitted weight limit.

In addition to all damages assessed herein, for every violation of any weight limit as provided in this chapter or in any permit issued pursuant to Article 18 (§ 46.2-1139 et seq.) of this chapter there shall be assessed additional liquidated damages of \$20.

If a person has no prior violations under the motor vehicle weight laws, and the excess weight does not exceed 2,500~~1,500~~ pounds, the general district court may waive the liquidated damages against such person. Except as provided by § 46.2-1138, such assessment shall be entered by the court or by the Department as a judgment for the Commonwealth, the entry of which shall constitute a lien upon the overweight vehicle. Except as provided by § 46.2-1138, such sums shall be paid to the Department or collected by the attorney for the Commonwealth and forwarded to the State Treasurer and allocated to the fund appropriated for the construction and maintenance of state highways.

B. If the gross weight of the vehicle exceeds lawful limits by at least 25 percent but no more than 50 percent, the amount of the liquidated damages shall be two times the amount provided for in the foregoing provisions of this section; if the gross weight of the vehicle exceeds lawful limits by more than 50 percent, the amount of the liquidated damages shall be three times the amount provided for in the foregoing provisions of this section. The provisions of this subsection shall not apply to pickup or panel trucks.

C. The increases in the liquidated damages under subsection A pursuant to enactments of a Session of the General Assembly held in 2006 shall not be applicable to any motor vehicle hauling forest products from the place where such products are first produced, cut, harvested, or felled to the location where they are first processed. Notwithstanding any other provision in this section, except as provided by § 46.2-1138, the revenues generated by the increases in the liquidated damages under this section pursuant to enactments of a Session of the General Assembly held in 2006 shall be paid to the Department or collected by the attorney for the Commonwealth and forwarded to the State Treasurer and deposited into the Transportation Trust Fund established under § 33.1-23.03:1 and allocated pursuant to subsection B of § 33.1-23.03:2. For the revenues paid to the Department, the Commissioner

of the Department shall make such written certifications as are necessary for the Comptroller to make the required deposit into the Transportation Trust Fund under this subsection as soon as practicable.

§ 58.1-802. Additional tax paid by grantor; collection.

A. In addition to any other tax imposed under the provisions of this chapter, a tax is hereby imposed on each deed, instrument, or writing by which lands, tenements or other realty sold is granted, assigned, transferred, or otherwise conveyed to, or vested in the purchaser, or any other person, by such purchaser's direction. The rate of the tax, when the consideration or value of the interest exceeds \$100, shall be ~~50 cents for each \$500~~30 cents 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. No increase in the city or county recordation tax authorized by § 58.1-814 shall be deemed authorized by this section.

The tax 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 tax imposed by this section.

No such deed, instrument or other writing shall be admitted to record without certification of the clerk of the court wherein first recorded having been affixed thereto that the tax imposed by this section has been paid. The clerk shall include within the certificate the amount of such tax collected thereon.

B. Taxes imposed by this section shall be collected as provided in § 58.1-812 and the clerk shall return taxes collected hereunder ~~one half into the state treasury and one half into the treasury of the locality~~into the treasury of the locality at the rate of 25 cents for each \$100 of value as determined pursuant to subsection A, with the remainder of such tax collected returned into the state treasury. At least 80% of the taxes returned into the treasury of the locality pursuant to this section shall be used for local or regional projects directly relating to transportation.

The local portion of the tax imposed by this section on property which is located in more than one jurisdiction shall be collected by the clerk in proportion to the value of the property located in each such locality when recorded therein.

Every clerk of court collecting taxes under this section for the county or city which he serves shall be entitled to compensation for such service at five percent of the amount so collected and paid, with such compensation based on a rate of 10 cents for each \$100 of value as determined pursuant to subsection A.

§ 58.1-802.1. Additional local tax paid by grantor; collection.

A. In addition to the tax imposed by § 58.1-802 and any other fee, tax, or other charge imposed under law, the council of any city and the governing body of any county may, by ordinance, impose a tax on each deed, instrument, or writing by which lands, tenements or other realty sold (located in the county or city) is granted, assigned, transferred, or otherwise conveyed to, or vested in the purchaser, or any other person, by such purchaser's direction. The rate of the tax, when the consideration or value of the interest exceeds \$100, shall be 10 cents for each \$100 or fraction thereof, exclusive of the value of any lien or encumbrance remaining thereon at the time of the sale, whether such lien is assumed or the realty is sold subject to such lien or encumbrance.

The tax imposed pursuant to the authority granted under this section shall be paid by the grantor (or any person who signs on behalf of the grantor) of any deed, instrument or writing that is subject to the tax imposed pursuant to this section.

In any county or city in which such tax is imposed, no such deed, instrument or other writing shall be admitted to record without certification of the clerk of the court wherein first recorded having been affixed thereto that such tax has been paid. The clerk shall include within the certificate the amount of such tax collected thereon.

B. The tax shall be collected pursuant to subsection B of § 58.1-802. The clerk shall return any taxes collected hereunder into the treasury of the locality, and such funds shall be used for local or regional projects directly relating to transportation, including debt service payments on any obligations authorized and issued on or after July 1, 2006.

The tax imposed pursuant to the authority granted under this section on property which is located in more than one jurisdiction shall be collected by the clerk in proportion to the value of the property located in each such locality when recorded therein.

C. Except as otherwise provided in this section, the tax imposed pursuant to the authority granted under this section shall be administered, enforced, and collected in the same manner as set forth in Subtitle III of Title 58.1 for the administration, enforcement, and collection of local taxes.

§ 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 or limited liability company upon merger or consolidation of two or more corporations, partnerships or limited liability companies, 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, located in a county with a population of not less than 28,500 and not more than 28,650 or a city with a population of not less than 66,000 and not more than 70,000.

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 14 of subsection A of this section.

C. The ~~tax~~ taxes imposed by §§ 58.1-802 and 58.1-802.1 shall not apply to any:

1. Transaction described in subdivisions 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

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 imposed by §§ 58.1-801, 58.1-802, 58.1-802.1, 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.

§ 58.1-812. Payment prerequisite to recordation; exceptions; assessment and collection of tax; penalty for misrepresentation.

A. Except as otherwise provided in this chapter, no deed, deed of trust, contract or other instrument shall be admitted to record without the payment of the tax imposed thereon by law and the fee pursuant to § 58.1-817, as applicable. However, after payment of the tax imposed by this chapter and any tax imposed pursuant to the authority granted under § 58.1-802.1, when an instrument is first offered for recordation, such instrument may thereafter be recorded in the office of any other clerk without the payment of any tax except any local recordation tax as provided in Article 1 (§ 58.1-3800 et seq.) of Chapter 38 of this title. Any instrument may also be recorded free of tax and fee in the office of the clerk where such instrument was originally recorded when the record containing such instrument has been destroyed.

B. The tax on every deed, deed of trust, contract or other instrument shall be determined and collected by the clerk in whose office the instrument is first offered for recordation. The clerk may ascertain the consideration of the deed or of the instrument, the actual value of the property conveyed, and the qualification of the deed or instrument for any exemption claimed by inquiry, affidavit, declaration or other extrinsic evidence acceptable to the clerk. The fee shall be \$1 on every recorded deed pursuant to § 58.1-817 and shall be collected by the clerk in whose office the deed is offered for recordation.

C. Any person who knowingly misrepresents any of the information requested by the clerk of court pursuant to this section shall be guilty of a Class 2 misdemeanor.

§ 58.1-813. Collection of tax by Department.

The Department may assess and collect any tax imposed by this chapter or imposed pursuant to the authority granted under § 58.1-802.1, which has remained uncollected for thirty days. The Department, prior to collecting such tax, shall give notice to the clerk of court in whose office the tax was to be collected. The Department may then proceed to assess and collect the unpaid tax in the same

manner and by the same methods used for the collection of any state tax administered by the Department.

Any local tax collected hereunder in conjunction with the collection of a state tax by the Department shall be deposited into the state treasury. The Comptroller shall, by warrant drawn on the Treasurer of Virginia, remit to the proper city or county any amounts due to such city or county.

§ 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.

B. There is hereby levied a tax at the rate of ~~sixteen~~ seventeen and one-half 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, along with any penalties and interest that may accrue.

E. There is hereby levied a tax at the rate of five cents per gallon on aviation jet fuel purchased or acquired for use by a user of aviation fuel other than an aviation consumer. There is hereby levied a tax at the rate of five cents per gallon upon the first 100,000 gallons of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by any aviation consumer in any fiscal year. There is hereby levied a tax at the rate of one-half cent per gallon on all aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by an aviation consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation jet fuel taxable under this chapter shall be liable for the tax imposed at the rate of ~~sixteen~~ seventeen and one-half 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. There is hereby levied a tax at the rate of ~~sixteen~~ seventeen and one-half 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~~ seventeen and one-half 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 ~~fifty dollars~~ \$70 per vehicle on each highway vehicle that is fueled from a private source if the alternative fuels tax levied under this article has not been paid on fuel used in the vehicle. If such a highway vehicle is not in operation by January 1 of any year, the license tax shall be reduced by one-twelfth for each complete month which shall have elapsed since the beginning of such year.

§ 58.1-2289. Disposition of tax revenue generally.

A. ~~Unless Except as~~ otherwise provided in subsection F and elsewhere in this section, all taxes and fees, including civil penalties, collected by the Commissioner pursuant to this chapter, less a reasonable amount to be allocated for refunds, shall be promptly paid into the state treasury and shall constitute special funds within the Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds shall accrue to these funds. Except as provided in subsection F and § 33.1-23.03:1, no portion of the revenue derived from taxes collected pursuant to §§ 58.1-2217, 58.1-2249 or § 58.1-2701, and remaining after authorized refunds for nonhighway use of fuel, shall be used for any purpose other than the construction, reconstruction or maintenance of the roads and projects comprising the State Highway System, the Interstate System and the secondary system of state highways and expenditures directly and necessarily required for such purposes, including the retirement of revenue bonds.

~~Revenues~~Except as provided in subsection F, revenues collected under this chapter may be also used for (i) contributions toward the construction, reconstruction or maintenance of streets in cities and towns of such sums as may be provided by law and (ii) expenditures for the operation and maintenance of the Department of Transportation, the Department of Rail and Public Transportation, the Department of Aviation, the Virginia Port Authority, and the Department of Motor Vehicles as may be provided by law.

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

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

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

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

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

From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for the propelling of watercraft, after deduction for the additional applicable revenues generated by increases in the rates of taxes under this chapter pursuant to enactments of a Session of the General Assembly held in 2006 and after deduction for lawful refunds, there shall be paid into the state treasury for use by the Marine Resources Commission, the Virginia Soil and Water Conservation Board, the State Water Control Board, and the Commonwealth Transportation Board to (i) improve the public docks as specified in this section, (ii) improve commercial and sports fisheries in Virginia's tidal waters, (iii) make environmental improvements including, without limitation, fisheries management and habitat enhancement in the Chesapeake and its tributaries, and (iv) further the purposes set forth in § 33.1-223, a sum as established by the General Assembly.

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. An amount equivalent to the net additional revenues, as determined by the Commissioner, generated by increases in the rates of taxes under this chapter pursuant to enactments of a Session of the General Assembly held in 2006 shall be deposited by the Comptroller into the Transportation Trust Fund established under § 33.1-23.03:1 and allocated pursuant to subsection B of § 33.1-23.03:2.

The Commissioner shall provide a monthly certification to the Comptroller reporting such net additional revenues generated in the preceding month. The certification for each month shall be provided to the Comptroller no later than the twentieth of the immediately following month. The Comptroller shall make the required deposits into the Transportation Trust Fund for each month's revenues no later than the last day of the immediately following month.

§ 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 (i) vehicles with a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more, or (ii) 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.

There shall also be levied a tax upon the rental of a motor vehicle in Virginia, without regard to whether such vehicle is required to be licensed by the Commonwealth. However, such tax shall not be levied upon a rental to a person for re-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 or gross proceeds:

1. Three-percent and one-quarter percent through midnight on June 30, 2007, 3.5% beginning July 1, 2007, through midnight on June 30, 2008, and 3.75% beginning on and after July 1, 2008, 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 this 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 this Commonwealth.

2. Three-percent and one-quarter percent through midnight on June 30, 2007, 3.5% beginning July 1, 2007, through midnight on June 30, 2008, and 3.75% beginning on and after July 1, 2008, 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 this Commonwealth; or 3% of the sale price of each manufactured home as defined in § 36-85.3 or 2% 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. When any such motor vehicle or manufactured home 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. Four percent of the gross proceeds from the rental in Virginia of any motor vehicle, except those with a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more.

4. In addition to the tax levied pursuant to subdivision A 3, a tax of four percent of the gross proceeds shall be levied on the rental in Virginia of any daily rental vehicle, whether or not such vehicle is required to be licensed in the Commonwealth.

5. In addition to all other applicable taxes and fees, a fee of two percent of the gross proceeds shall be imposed on the rental in Virginia of any daily rental vehicle, whether or not such vehicle is required to be licensed in the Commonwealth. For purposes of this chapter, the rental fee shall be implemented, enforced, and collected in the same manner that rental taxes are implemented, enforced, and collected.

6. The minimum tax levied on the sale of any motor vehicle in the Commonwealth shall be \$35, except as provided by those exemptions defined in § 58.1-2403.

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. A motor vehicle subject to the tax imposed under subdivision A 3 shall be subject to the tax under either subdivision A 1 or A 2 when it ceases to be used for rental as an established business or part of an established business, or incidental or germane to such business.

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, rented or used by the United States government or any governmental agency, or the Commonwealth of Virginia or any political subdivision thereof. 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 this Commonwealth.

D. Any person who with intent to evade or to aid another person to evade the tax provided for herein, falsely states the selling price of a vehicle on a bill of sale, assignment of title, application for

title, or any other document or paper submitted to the Commissioner pursuant to any provisions of this title or Title 46.2, shall be guilty of a Class 3 misdemeanor.

E. Effective January 1, 1997, any amount designated as a "processing fee" and any amount charged by a dealer for processing a transaction, which is required to be included on a buyer's order pursuant to subdivision 10 of § 46.2-1530, shall be subject to the tax.

§ 58.1-2425. Disposition of revenues.

A. All funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury. Except as otherwise provided in this section, these funds shall constitute special funds within the Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds shall accrue to these funds. The revenue so derived, after refunds have been deducted, is hereby allocated for the construction, reconstruction and maintenance of highways and the regulation of traffic thereon and for no other purpose. However, (i) all funds collected pursuant to the provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the city, town, or county wherein such manufactured home is to be situated as a dwelling; (ii) all funds collected from the additional tax imposed by subdivision A 4 of § 58.1-2402 on the rental of daily rental vehicles shall be distributed quarterly to the city, town, or county wherein such vehicle was delivered to the rentee; (iii) effective January 1, 1987, an amount equivalent to the net additional revenues generated by enactments of the 1986 Special Session of the Virginia General Assembly which amended §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402 and this section shall be distributed to and paid into the Transportation Trust Fund, a special fund within the Commonwealth Transportation Fund, and are hereby appropriated to the Commonwealth Transportation Board for transportation needs; (iv) except as otherwise provided in clause (iii) of this sentence, all moneys collected from the tax on the gross proceeds from the rental in Virginia of any motor vehicle pursuant to subdivision A 3 of § 58.1-2402 at the tax rate in effect on December 31, 1986, shall be paid by the Commissioner into the state treasury and shall be paid into the Rail Enhancement Fund established by § 33.1-221.1:1.1; ~~and~~ (v) all additional revenues resulting from the fee imposed under subdivision A 5 of § 58.1-2402 as enacted by the 2004 Session of the General Assembly shall be used to pay the debt service on the bonds issued by the Virginia Public Building Authority for the Statewide Agencies Radio System (STARS) for the

Department of State Police pursuant to the authority granted by the 2004 Session of the General Assembly; and (vi) an amount equivalent to the net additional revenues generated by increases in the rates of taxes under subdivisions A 1 and A 2 of § 58.1-2402 pursuant to enactments of a Session of the General Assembly held in 2006 shall be deposited by the Comptroller into the Transportation Trust Fund established under § 33.1-23.03:1 and allocated pursuant to subsection B of § 33.1-23.03:2.

B. As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation Trust Fund pursuant to clause (iii) of subsection A of this section, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit Fund.

§ 58.1-2531. Distribution of certain revenue.

A. Beginning with the Commonwealth's 2006-2007 fiscal year and for each fiscal year thereafter, all revenues collected by the Commission from the tax imposed under this chapter shall be deposited by the Comptroller into the Transportation Trust Fund established under § 33.1-23.03:1 until the amount deposited into the Fund pursuant to this section equals the revenues collected from such tax for the immediately preceding calendar year that were attributable to any policy of motor vehicle insurance as defined in § 38.2-124, including any motor vehicle insurance included in a combination policy as defined in § 38.2-1921.

All revenues deposited to the Transportation Trust Fund pursuant to this section shall be allocated pursuant to subsection B of § 33.1-23.03:2.

B. For purposes of the Comptroller's deposits under this section, the Commissioner of the Bureau of Insurance shall, no later than July 15 of each year, provide a written certification to the Comptroller that reports the amounts to be deposited into the Transportation Trust Fund in the fiscal year as required under this section. After the required amount has been deposited into such Fund, the Comptroller shall deposit all remaining revenues collected in the fiscal year from the taxes imposed under this chapter into the general fund of the state treasury. The Comptroller shall make all deposits under this section as soon as practicable.

No refund of the tax imposed under this chapter shall be paid from the revenues designated for deposit to the Transportation Trust Fund under this section.

§ 58.1-2701. Amount of tax.

A. Except as provided in subsection B, every motor carrier shall pay a road tax equivalent to ~~nineteen and one-half~~twenty-one cents per gallon calculated on the amount of motor fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of sixty degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute), used in its operations within the Commonwealth.

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

B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles that are not registered under the International Registration Plan shall pay a fee of ~~\$100~~\$150 per year for each qualified highway vehicle. The fee is due and payable when the vehicle registration fees are paid pursuant to the provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2.

If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the registration fee paid is authorized by law.

C. All taxes and fees paid under the provisions of this chapter shall be credited to the Highway Maintenance and Operating Fund, a special fund within the Commonwealth Transportation Fund.

§ 58.1-2706. Credit for payment of motor fuel, diesel fuel or liquefied gases tax.

A. Every motor carrier subject to the road tax shall be entitled to a credit on such tax equivalent to ~~sixteen-seventeen and one-half~~ cents per gallon on all motor fuel, diesel fuel and liquefied gases purchased by such carrier within the Commonwealth for use in its operations either within or without the Commonwealth and upon which the motor fuel, diesel fuel or liquefied gases tax imposed by the laws of the Commonwealth has been paid by such carrier. Evidence of the payment of such tax in such form as may be required by, or is satisfactory to, the Department shall be furnished by each carrier claiming the credit herein allowed.

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 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.

**12. That no locality shall use the revenues returned to the locality for transportation purposes pursuant to § 58.1-802 of the Code of Virginia or authorized to be collected by the locality pursuant to § 58.1-802.1 of the Code of Virginia (pursuant to the eleventh enactment of this act) to reduce its local appropriation for transportation purposes, excluding such revenues, below the amount it appropriated for transportation purposes in its fiscal year beginning on July 1, 2005.**

**13. That, for purposes of the eleventh enactment of this act, no locality shall use revenues received for mass transit pursuant to subdivision B 2 of § 33.1-23.03:2 of the Code of Virginia to reduce its local appropriation for transportation purposes, excluding such revenues, below the amount it appropriated for transportation purposes in its fiscal year beginning on July 1, 2005.**

**14. That §§ 58.1-901 and 58.1-902 of the Code of Virginia are amended and reenacted as follows:**

§ 58.1-901. Definitions.

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

"Decedent" means a deceased person.

"Federal credit" means the maximum amount of the credit for state death taxes allowable by § 2011 of the United States Internal Revenue Code of 1954, as amended or renumbered, or successor

provision, in respect to a decedent's taxable estate. The term "maximum amount" shall be construed as to take full advantage of such credit as the laws of the United States may allow. In no event, however, shall such amount be less than the federal credit allowable by § 2011 of the Internal Revenue Code as it existed on January 1, 1978.

"Gross estate" means "gross estate" as defined in § 2031 of the United States Internal Revenue Code of 1954, as amended or renumbered, or the successor provision of the laws of the United States.

"Interest in a closely held business" means an "interest in a closely held business" as defined in § 6166 of the United States Internal Revenue Code of 1986, as amended or renumbered, or the successor provision of the laws of the United States.

"Nonresident" means a decedent who was domiciled outside of the Commonwealth of Virginia at his death.

"Personal representative" means the personal representative of the estate of the decedent, appointed, qualified and acting within the Commonwealth, or, if there is no personal representative appointed, qualified and acting within the Commonwealth, then any person in actual or constructive possession of the Virginia gross estate of the decedent.

"Resident" means a decedent who was domiciled in the Commonwealth of Virginia at his death.

"State" means any state, territory or possession of the United States and the District of Columbia.

"Taxable estate" means "taxable estate" as defined in § 2051 of the United States Internal Revenue Code of 1954, as amended or renumbered, or the successor provision of the laws of the United States.

"Value" means "value" as finally determined for federal estate tax purposes under the laws of the United States relating to federal estate taxes.

"Working farm" means an interest in a closely held business that operates as an active trade or business for agricultural purposes.

Any reference in this chapter to the laws of the United States relating to federal estate and gift taxes means the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal estate and gift taxes, as the same may be or become effective at any time or from time to time.

§ 58.1-902. Tax on transfer of taxable estate of residents; amounts; credit; property of resident defined.

A. 1. For deaths occurring before December 31, 2006, a tax in the amount of the federal credit is imposed on the transfer of the taxable estate of every resident, subject, where applicable, to the credit provided for in subsection B.

2. For deaths occurring on or after December 31, 2006, a tax in the amount of the federal credit is imposed on the transfer of the taxable estate of every resident whose gross estate exceeds \$10 million, subject, where applicable, to the credit provided for in subsection B. However, no tax shall be imposed on a gross estate if the majority of the assets of the total estate are an interest in a closely held business or a working farm.

B. If the real and tangible personal property of a resident is located outside of the Commonwealth and is subject to a death tax imposed by another state for which a credit is allowed under § 2011 of the Internal Revenue Code of 1954, as amended or renumbered, or the successor provision of the laws of the United States relating to federal estate taxes, the amount of tax due under this section shall be credited with the lesser of:

1. The amount of the death tax paid the other state and credited against the federal estate tax; or
2. An amount computed by multiplying the federal credit by a fraction, the numerator of which is the value of that part of the gross estate over which another state or states have jurisdiction to the same extent to which Virginia would exert jurisdiction under this chapter with respect to the residents of such other state or states and the denominator of which is the value of the decedent's gross estate.

C. Property of a resident includes:

1. Real property situated in the Commonwealth of Virginia;
2. Tangible personal property having an actual situs in the Commonwealth of Virginia; and
3. Intangible personal property owned by the resident regardless of where it is located.

**15. That §§ 58.1-512 and 58.1-513 of the Code of Virginia are amended and reenacted as follows:**

§ 58.1-512. Land preservation tax credits for individuals and corporations.

A. For taxable years beginning on or after January 1, 2000, there shall be allowed as a credit against the tax liability imposed by §§ 58.1-320 and 58.1-400, and in limited circumstances against the tax liability imposed pursuant to Chapter 9 (§ 58.1-900 et seq.) as such circumstances are provided in

subsection D of § 58.1-513, an aggregate amount equal to the lesser of \$600,000 or 50-percent% of the fair market value of any land or interest in land located in Virginia which is conveyed for the purpose of agricultural and forestal use, open space, natural resource, and/or biodiversity conservation, or land, agricultural, watershed and/or historic preservation, as an unconditional donation in perpetuity by the landowner/taxpayer to a public or private conservation agency eligible to hold such land and interests therein for conservation or preservation purposes.

In determining the fair market value of any land, or any interest therein, so conveyed, for purposes of the credit under this article, no value shall be included for any structures or other improvements to land.

The maximum annual amount of credit that may be claimed under this article for such conveyances shall be as provided in subdivision C 1.

B. The fair market value of qualified donations made under this section shall be substantiated by a "qualified appraisal" prepared by a "qualified appraiser," as those terms are defined under applicable federal law and regulations governing charitable contributions. The value of the donated interest in land that qualifies for credit under this section, as determined according to appropriate federal law and regulations, shall be subject to the limits established by U.S. Internal Revenue Code § 170 (e). In order to qualify for a tax credit under this section, the qualified appraisal shall be signed by the qualified appraiser, who must be licensed in the Commonwealth of Virginia as provided in § 54.1-2011, and a copy of the appraisal shall be submitted to the Department. In the event that any appraiser falsely or fraudulently overstates the value of the contributed property in an appraisal that the appraiser has signed, the Department may disallow further appraisals signed by the appraiser and shall refer the appraiser to the Real Estate Appraiser Board for appropriate disciplinary action pursuant to § 54.1-2013, which may include, but need not be limited to, revocation of the appraiser's license. Any appraisal that, upon audit by the Department, is determined to be false or fraudulent, may be disregarded by the Department in determining the fair market value of the property and the amount of tax credit to be allowed under this section.

The appraisal estimating the value of any donation upon which credits are to be based shall employ proper methodology and be appropriately supported by market evidence. The Department of Taxation shall establish and make publicly available guidelines that incorporate, as applicable (without

limitation), requirements under § 170 (h) of the U.S. Internal Revenue Code of 1986, as amended, and the Uniform Standards of Professional Appraisal Practice (USPAP). The Department shall update the guidelines as necessary as determined by the Tax Commissioner. Such guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

Notwithstanding any other provision of law, the fair market value of a qualified donation shall not exceed the value for the highest and best use for which the property is adaptable and needed or likely to be needed in the reasonably near future. In any review or appeal before the Tax Commissioner or in any court of the Commonwealth in which the fair market value is being contested, the burden of proof shall be on the taxpayer to show there is a reasonable probability that (i) the property is physically adaptable for the highest and best use that is proposed in the appraisal and (ii) there is a need or demand for such use in the reasonably near future in the immediate area in which the property is located.

C. 1. The amount of the credit that may be claimed by ~~a taxpayer~~ each taxpayer, including credit claimed by applying unused credits as provided under subsection C of § 58.1-513, shall not exceed \$50,000 for 2000 taxable years, \$75,000 for 2001 taxable years, and \$100,000 for 2002 taxable years and thereafter. In addition, for each taxpayer, in any one taxable year the credit used may not exceed the amount of individual, fiduciary or corporate income tax otherwise due. Any portion of the credit which is unused in any one taxable year may be carried over for a maximum of five consecutive taxable years following the taxable year in which the credit originated until fully expended.

2. Qualified donations shall include the conveyance in perpetuity of a fee interest in real property or a less-than-fee interest in real property, such as a conservation restriction, preservation restriction, agricultural preservation restriction, or watershed preservation restriction, provided that such less-than-fee interest qualifies as a charitable deduction under § 170 (h) of the U.S. Internal Revenue Code of 1986, as amended. ~~Qualified donations shall not include the conveyance of a fee interest, or a less-than-fee interest, in real property that has been dedicated for the purpose of fulfilling density requirements to obtain approvals for zoning, subdivision, site plan, or building permits.~~

3. a. Notwithstanding any other provision under this article, credit against the tax liability imposed by § 58.1-320 or 58.1-400 shall be allowed only for land or an interest in land that (i) meets guidelines of objective criteria established by the Virginia Land Conservation Foundation or (ii) the Secretary of Natural Resources has otherwise determined provides exceptional benefit to the

Commonwealth in cases in which any land or interest therein does not meet the objective criteria established by the Virginia Land Conservation Foundation. Prior to making the determination described in clause (ii), the Secretary shall provide written notice (describing in detail the exceptional benefit to the Commonwealth of the land that is the subject of the donation) to the Chairmen of the Senate Committee on Finance and the House Committee on Appropriations for their review. After the expiration of 30 days from the date of such notice, the Secretary may make the determination described under clause (ii).

b. The objective criteria established by the Virginia Land Conservation Foundation shall describe (i) the objective characteristics of land that has important conservation values including but not limited to land that is located within the Chesapeake Bay watershed or that is "real estate devoted to open-space use" as defined in § 58.1-3230 but not including clause (vii) of such definition; (ii) the objective attributes of a donee with a commitment to preserving the conservation values of land; and (iii) the terms of donations that are required for different types of land in order to provide an appropriate level of protection for the conservation values of land, including reasonable agricultural best management practices and appropriate forest management plans. Such criteria shall incorporate, as applicable (without limitation), requirements under the Open-Space Land Act (§ 10.1-1700 et seq.), the Virginia Conservation Easement Act (§ 10.1-1009 et seq.), and § 170 (h) of the U.S. Internal Revenue Code of 1986, as amended.

4. Any fee interest, or a less-than-fee interest, in real property that has been dedicated as open space within, or as part of, a residential subdivision or any other type of residential or commercial development; dedicated as open space in, or as part of, any real estate development plan; or dedicated for the purpose of fulfilling density requirements to obtain approvals for zoning, subdivision, site plan, or building permits shall not be a qualified donation under this article.

In addition, if credit under this article is allowed for a portion of a recorded parcel of land, no credit shall be allowed for any other portion of such parcel until at least 15 years have elapsed from the time of donation. This prohibition shall not apply if (i) all owners of the parcel who have been allowed credit for a qualified donation are not affiliated with the person or entity seeking credit for a different portion of the parcel and (ii) in the case of an individual seeking credit, the individual has not previously

made a qualified donation for any portion of the parcel and is not an immediate family member of any such owners.

Pursuant to the criteria set forth in this subdivision, the Department of Taxation shall establish and make publicly available guidelines that describe the property and the circumstances under which donations of such property shall not be qualified donations. The Department shall update the guidelines as necessary as determined by the Tax Commissioner. Such guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

35. Qualified donations shall be eligible for the tax credit herein described if such donations are made to the Commonwealth of Virginia, an instrumentality thereof, or a charitable organization described in § 501 (c) (3) of the U.S. Internal Revenue Code of 1986, as amended, if such charitable organization (i) meets the requirements of § 509 (a) (2) or (ii) meets the requirements of § 509 (a) (3) and is controlled by an organization described in § 509 (a) (2).

46. The preservation, agricultural preservation, historic preservation or similar use and purpose of such property shall be assured in perpetuity.

§ 58.1-513. Limitations; transfer of credit; gain or loss from tax credit.

A. Any taxpayer claiming a tax credit under this article shall not claim a credit under any similar Virginia law for costs related to the same project. To the extent a credit is taken in accordance with this article, no subtraction allowed for the gain on the sale of (i) land dedicated to open-space use or (ii) an easement dedicated to open-space use under subsection C of § 58.1-322 shall be allowed for three years following the year in which the credit is taken.

B. Any tax credits that arise under this article from the donation of land or an interest in land made by a pass-through tax entity such as a trust, estate, partnership, limited liability company or partnership, limited partnership, subchapter S corporation or other fiduciary shall be used either by such entity if it is the taxpayer on behalf of such entity or by the member, manager, partner, shareholder or beneficiary, as the case may be, in proportion to their interest in such entity in the event that income, deductions and tax liability pass through such entity to such member, manager, partner, shareholder or beneficiary or as set forth in the agreement of said entity. Such tax credits shall not be claimed by both the entity and the member, manager, partner, shareholder or beneficiary for the same donation.

C. Any ~~taxpayer holding a credit person or entity making a qualified donation~~ under this article may transfer any unused but otherwise allowable credit that relates to such qualified donation for use by another taxpayer on Virginia income tax returns. However, any organization described under § 501 (c) of the U.S. Internal Revenue Code of 1986, as amended, shall not be allowed to transfer any credit under this article. A ~~taxpayer person or entity~~ who transfers any amount of credit under this article shall file a notification of such transfer to the Department in accordance with procedures and forms prescribed by the Tax Commissioner.

For purposes of this article, the aggregate amount of unused but otherwise allowable credit that may be transferred and claimed as credit by all taxpayers for any qualified donation means (i) the lesser of \$600,000 or 50% of the qualified donation minus (ii) the amount claimed as credit by the person or entity who made such qualified donation.

D. Any unused credit held by an individual at the time of his death may be used by the estate of such person as credit against the tax liability imposed pursuant to Chapter 9 (§ 58.1-900 et seq.) provided that the five-year carryover period described under subdivision C 1 of § 58.1-512 had not elapsed prior to the date of such individual's death. No estate, however, may transfer any unused credit described in this subsection. The use by an estate of any unused credit held by the decedent of the estate shall not be considered a transfer for purposes of this article.

~~D~~E. To the extent included in and not otherwise subtracted from federal adjusted gross income pursuant to § 58.1-322 or federal taxable income pursuant to § 58.1-402, there shall be subtracted any amount of gain or income recognized by a taxpayer on the application of a tax credit under this article against a Virginia income tax liability.

~~E~~F. The transfer of the credit and its application against a tax liability shall not create gain or loss for the transferor or the transferee of such credit.

~~F~~G. A pass-through tax entity, such as a partnership, limited liability company or Subchapter S corporation, may appoint a tax matters representative, who shall be a general partner, member/manager or shareholder, and register that representative with the Tax Commissioner. The Tax Commissioner shall be entitled to deal with the tax matters representative as representative of the taxpayers to whom credits have been allocated or transferred by the entity under this article with respect to those credits. In the event a pass-through tax entity allocates or transfers tax credits arising under this article to its

partners, members or shareholders and the allocated or transferred credits shall be disallowed, in whole or in part, such that an assessment of additional tax against a taxpayer shall be made, the Tax Commissioner shall first make written demand for payment of any additional tax, together with interest and penalties, from the tax matters representative. In the event such payment demand is not satisfied, the Tax Commissioner shall proceed to collection against the taxpayers in accordance with the provisions of Chapter 18 (§ 58.1-1800 et seq.) of this title.

**16. That the amendments provided in the fifteenth enactment of this act shall be applicable to any conveyance of property (or the conveyance of any interest in property) under the Virginia Land Conservation Incentives Act of 1999 (§ 58.1-510 et seq. of the Code of Virginia) that is made on or after July 1, 2006, except that (i) the amendments to subsection B of § 58.1-512 of the Code of Virginia shall be applicable to all conveyances, regardless of the date of conveyance, (ii) the amendments to subdivision C 3 of § 58.1-512 of the Code of Virginia shall be applicable to any conveyance of property made on or after January 1, 2007, (iii) the amendments to subdivision C 1 of § 58.1-512 of the Code of Virginia shall be applicable for taxable years beginning on or after January 1, 2006, and (iv) the amendments to subsection D of § 58.1-513 of the Code of Virginia shall be applicable to estates of persons who die on or after January 1, 2006.**

**17. That, for purposes of the fifteenth enactment of this act, the Virginia Land Conservation Foundation shall, pursuant to subdivision C 3 of § 58.1-512 of the Code of Virginia, establish guidelines of objective criteria for qualifying donations under the Virginia Land Conservation Incentives Act of 1999 (§ 58.1-510 et seq. of the Code of Virginia). Such guidelines shall be established and made publicly available by December 31, 2006. Such guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).**

**18. That, for purposes of the fifteenth enactment of this act, the guidelines required under subdivision C 4 of § 58.1-512 of the Code of Virginia shall first be made publicly available no later than October 1, 2006.**

**19. That §§ 51.1-138 and 51.1-206 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 33.1-221.1:9 as follows:**

**[§ 33.1-221.1:9. Dangerous driving offenses; payments to the Commonwealth.](#)**

A. Whenever a person is convicted by a court of competent jurisdiction of any of the dangerous driving offenses or traffic infractions enumerated in this section, the court shall, in addition to any fees, fines, or costs imposed, order the person to pay to the State Treasurer for deposit into the General Fund an amount as follows:

1. A \$100 payment for a violation of § 18.2-266.1, subsection B of § 46.2-341.24, attempting to elude a law-enforcement officer pursuant to subsection A of § 46.2-817, § 46.2-844, or driving 20 or more miles per hour over the allowed speed limit as set forth in Article 8 (§ 46.2-870 et seq.) of Chapter 8 of Title 46.2.

2. A \$225 payment for a violation of § 18.2-266, 18.2-268.3, 18.2-272, or 18.2-36.1 or any other conviction of voluntary manslaughter or involuntary manslaughter involving the use of a vehicle, § 18.2-51.4, subsection B of § 46.2-301, subsection E of § 46.2-301.1, §§ 46.2-302 and 46.2-341.21, subsection A of § 46.2-341.24, §§ 46.2-357 and 46.2-391, subsection B of § 46.2-817, § 46.2-818, overtaking or passing a moving emergency vehicle pursuant to § 46.2-829, 46.2-852, or 46.2-853 when violation of this section would be a felony, §§ 46.2-854 through 46.2-862, § 46.2-863 when violation of this section would be a felony pursuant to subsection B of § 46.2-868, §§ 46.2-864 through 46.2-866, and § 46.2-921.1 if the violation resulted in the death of another person.

B. The order to pay the specified amount to the State Treasurer shall also be applicable to a juvenile adjudicated delinquent of any of the offenses listed in subsection A.

C. The court-ordered payment to the State Treasurer shall be collected from the defendant by the court along with any other fines, costs, forfeitures, penalties, and restitution pursuant to Article 3 (§ 19.2-348 et seq.) of Chapter 21 of Title 19.2. The court shall remit the payment designated for the State Treasurer to the Commonwealth.

D. If the defendant fails to pay the court-ordered payment to the State Treasurer, the court may order suspension of the defendant's privilege to drive as provided in § 46.2-395.

§ 51.1-138. Benefits.

For purposes of this section, "total reimbursable contribution costs" means that portion of the annual amount charged by the Virginia Retirement System to a county or city for retirement contributions for deputy sheriffs that is attributable (i) to only those deputy sheriffs whose salaries are

funded or reimbursed by the Compensation Board and (ii) using salaries as fixed by the Compensation Board for those deputy sheriffs described in clause (i).

A. Employees who become members under this article and on whose behalf contributions are paid as provided in this article shall be entitled to benefits under the retirement system.

B. By resolution legally adopted and approved by the Board, the employer may elect to provide benefits equivalent to those provided under the State Police Officers' Retirement System, as set out in Chapter 2 (§ 51.1-200 et seq.) of this title except for § 51.1-209 and except as provided in subsection D, in lieu of the benefits that would otherwise be provided hereunder for any employees who are employed in (i) law-enforcement positions comparably hazardous to that of a state police officer, including any sworn law-enforcement officer who has the duty and obligation to enforce the penal and traffic laws of this Commonwealth as directed by his superior officer, if so certified by his appointing authority, (ii) positions as full-time salaried fire fighters, or (iii) positions as regional jail superintendents and jail officers of regional jail farms, regional jails or jail authorities, as approved by the respective jail board or authority and by the participating political subdivisions of such entities. Sheriffs of political subdivisions which participate in the retirement system, and, as provided in subsection E, deputy sheriffs of political subdivisions which participate in the retirement system shall receive benefits equivalent to those of state police officers, except for the benefits provided under § 51.1-209 and except as provided in subsection D, regardless of whether the employer has elected to provide equivalent benefits as set out in this subsection.

C. Each employer providing the benefits of subsection B for its employees prior to July 1, 1990, may elect to provide for the early retirement of employees as set forth in this subsection in lieu of the early retirement and death before retirement provisions of the State Police Officers' Retirement System. Such election must be made to the Board in writing prior to July 1, 1990. Any member in service on or after his fifty-fifth birthday with five or more years of creditable service (i) as a member in the retirement system established by this chapter, (ii) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of this title, or (iii) as a member in the retirement system established by Chapter 2.1 (§ 51.1-211 et seq.) of this title may retire upon written notification to the Board setting forth at what time the retirement is to become effective. The effective date shall be after his last day of service but shall not be more than 90 days prior to the filing of such notice. The member shall receive an

allowance that shall be determined in the same manner as for retirement at an employee's normal retirement with creditable service and average final compensation being determined as of the date of his actual retirement. If the member has less than 30 years of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (a) the member's normal retirement date or (b) the first date on or after the member's fifty-fifth birthday on which the member would have completed a total of 30 years of creditable service. Effective December 31, 2003, any employee in service on June 30, 2002, and July 1, 2002, who is credited with five or more years of creditable service rendered under this chapter, Chapter 2 (§ 51.1-200 et seq.), or Chapter 2.1 (§ 51.1-211 et seq.) of this title shall not be subject to the vesting requirements of this section, and §§ 51.1-205 and 51.1-216.

Members retiring under the provisions of this subsection shall be entitled to receive post-retirement supplements as provided in § 51.1-166. In computing the amount of any supplement, any additional allowances being paid under the provisions of subsection B of § 51.1-206 shall be disregarded. In the case of death before retirement, members whose employers elect to provide benefits in accordance with the provisions of this subsection and who have not attained the age of 50 on the date of death shall be assumed to be 50 years of age for the purposes of reducing the benefits on an actuarial equivalent basis.

D. Any person being provided benefit coverage equivalent to the benefits provided under the State Police Officers' Retirement System pursuant to this section shall, for purposes of his annual retirement allowance, be eligible to have his creditable service multiplied by 1.70% of his average final compensation. Except as provided in subsection F, this shall be in lieu of such person being eligible for having his creditable service multiplied by 2.00% of his average final compensation, for which state police officers are eligible under Chapter 2 (§ 51.1-200 et seq.) of this title. Nothing in this subsection shall affect such person's eligibility for the additional allowance under subsection B of § 51.1-206.

E. 1. Any county or city participating in the Virginia Retirement System that was providing benefit coverage as of January 1, 2006, to any deputy sheriff that was at least equivalent to the benefits provided under the State Police Officers' Retirement System shall provide benefit coverage that is at least equivalent to the benefits described under subsection B to all deputy sheriffs serving the county or

city, including any deputy sheriffs whose salaries are not funded or reimbursed by the Compensation Board.

2. Any county or city participating in the Virginia Retirement System that was not providing benefit coverage as of January 1, 2006, to any deputy sheriff that was at least equivalent to the benefits provided under the State Police Officers' Retirement System, shall provide benefit coverage beginning January 1, 2007, that is at least equivalent to the benefits described under subsection B to all deputy sheriffs serving the county or city, including any deputy sheriffs whose salaries are not funded or reimbursed by the Compensation Board.

For each such county or city described in this subdivision, the Compensation Board shall, beginning on January 1, 2007, of the 2006-2007 fiscal year, and for each fiscal year thereafter, fund or reimburse 100% of the county's or city's total reimbursable contribution costs.

In no case, however, shall the amount funded or reimbursed to a county or city described in this subdivision in any fiscal year be less than the amount computed by applying the employer retirement contribution rate in effect that is generally applicable for state employees, as such term is defined in § 51.1-124.3, to the salaries of the deputy sheriffs (serving such county or city) whose salaries are funded or reimbursed by the Compensation Board. For purposes of this computation, the salaries of such deputy sheriffs shall be the salaries for such persons as fixed by the Compensation Board.

F. An employer providing benefit coverage pursuant to this section shall increase the multiplier of average final compensation from 1.70% to 2.00% for sheriffs, and may elect to increase the multiplier of average final compensation from 1.70% to 2.00% for any other class of employees described in subsection B. The employer shall be responsible for paying the actuarial cost of such increases. Such payments shall be credited to the employer's contribution account. Such contributions shall not be considered wages for purposes of Chapter 7 (§ 51.1-700 et seq.) of this title, nor shall they be considered salary or creditable compensation for purposes of this chapter.

**DG.** The retirement system shall not be liable for the payment of any retirement allowances or other benefits on behalf of a member or beneficiary of a member for which reserves have not been previously created from funds contributed by the employer or the members for such benefits.

§ 51.1-206. Service retirement allowance.

A. A member shall receive an annual retirement allowance, payable for life, as follows:

1. Normal retirement. - The allowance shall equal ~~1.70~~ 2.00 percent of his average final compensation multiplied by the amount of creditable service or disability retirement allowance payable under this section.

For retirements between October 1, 1994, and December 31, 1998, any state police officer who is a member or beneficiary of a retirement system administered by the Board shall receive an additional retirement allowance equal to three percent of the service or disability retirement allowance payable under this section. Average final compensation attributable to service as Governor, Lieutenant Governor, Attorney General, or member of the General Assembly shall not be included in computing this additional retirement allowance.

2. Early retirement. - The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the member has less than 25 years of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on or after his fiftieth birthday on which he would have completed a total of 25 years of creditable service.

B. In addition to the allowance payable under subsection A, a member shall receive annually from the date of his retirement until his retirement age, as such term is defined under the Social Security Act (42 U.S.C. § 416 et seq., as now or hereafter amended), an allowance equal to \$9,264. Beginning July 1, 2001, and biennially thereafter, such allowance shall be reviewed and adjusted by the Board to an amount recommended by the actuary of the Virginia Retirement System based upon increases in social security benefits in the interim.

This subsection shall not apply to the following: (i) any member who qualifies for retirement under subsection C of § 51.1-205 and is credited with less than 20 years' service rendered in a hazardous position or (ii) any member employed initially on or after July 1, 1974, who is credited with less than 20 years' service rendered in a hazardous position. However, any service rendered as an employee, as such term is defined in § 51.1-212, shall be deemed as service in a hazardous position for purposes of the additional retirement allowance herein.

C. If a beneficiary of a service retirement allowance under this chapter is at any time in service as an employee in a position covered for retirement purposes under the provisions of this or any chapter

other than Chapter 7 (§ 51.1-700 et seq.) of this title, his retirement allowance shall cease while so employed.

**20. That the provisions of the nineteenth enactment of this act shall not apply to (i) retirement allowances for retirements that are effective prior to July 1, 2006, or (ii) retirement allowances relating to a member who died prior to July 1, 2006.**

**21. That the revenues generated pursuant to § 33.1-221.1:9 of the Code of Virginia as set forth in the nineteenth enactment of this act shall be deposited into the general fund of the state treasury to be used for funding of the benefits set forth in such enactment as provided in this act.**

**22. That the provisions of the nineteenth enactment of this act amending § 51.1-138 of the Code of Virginia, as it relates to increased benefits for deputy sheriffs and the funding of such benefits, shall not apply to any locality that has in effect a retirement supplement for deputy sheriffs that equals or exceeds the annual allowance set forth in subsection B of § 51.1-206 of the Code of Virginia.**

**23. That the Code of Virginia is amended by adding in Title 33.1 a chapter numbered 10.2, consisting of sections numbered 33.1-391.6 through 33.1-391.9, as follows:**

**CHAPTER 10.2.**

**TRANSDOMINION EXPRESS AUTHORITY.**

§ 33.1-391.6. Short title.

This chapter shall be known and may be cited as the TransDominion Express Authority Act.

§ 33.1-391.7. Authority created; purpose.

There is hereby created a body corporate and a political subdivision of the Commonwealth to be known as the TransDominion Express Authority, hereinafter in this chapter known as "the Authority." The Authority shall have the responsibility within the TransDominion corridor of identifying needed construction, reconstruction, improvements, repairs, extensions, additions, restorations, and any related acquisitions of real or personal property, of or to rails, tracks, rights-of-way, shops, terminals, bridges, tunnels, rolling stock, signals, and any other equipment, infrastructure, or facilities that are or may be used to provide for the transportation of passengers by rail in coordination with freight rail in the Commonwealth that the Authority determines to be in the public interest, hereinafter referred to as a rail transportation project. In addition to its other powers hereinafter set forth, the Authority shall have the

power to finance or assist in financing, from the resources made available to it, any such rail transportation project. For purposes of this chapter, the TransDominion corridor shall be defined generally as the intercity rail corridor from Bristol through Roanoke and Lynchburg and including branches extending from Lynchburg to Richmond and from Lynchburg to Washington D.C. through Charlottesville and including communities adjacent thereto and to such other destinations as the Authority may deem appropriate.

§ 33.1-391.8. Composition of Authority; chairman and vice-chairman; quorum; administrative support services.

The Authority shall consist of nine voting members from the TransDominion Express service area appointed by the Governor, subject to confirmation by the General Assembly, who shall serve for terms of four years and may be reappointed for one additional term.

For the initial appointments only, four of the appointments may be for terms of two years so as to allow for staggered terms. Such initial two-year terms shall not count against the term limitation. Vacancies shall be filled by gubernatorial appointment for any unexpired term.

The Authority shall annually elect from its membership a chairman and vice-chairman, who shall continue to hold such office until their respective successors are elected. Five members of the Authority shall constitute a quorum.

The members of the Authority shall be reimbursed their actual and necessary expenses incurred in carrying out their duties and, in addition, shall be paid the same per diem as provided in the general appropriation act for members of the General Assembly engaged in legislative business between sessions.

§ 33.1-391.9. Powers of Authority.

The Authority shall have the following powers together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

1. To make loans or grants for purposes that are consistent with this chapter and otherwise to receive and expend moneys on behalf of the Authority;
2. To construct or acquire, by purchase, lease, contract, or otherwise, rail transportation facilities;
3. To enter into agreements or leases with public or private entities for the operation of rail transportation facilities it has acquired;

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

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

6. To establish and collect fees, charges, or other revenue for the use of the property, equipment, or facilities of the Authority, and to pledge such fees, charges, or other revenues to service debt authorized under this chapter;

7. To the extent not inconsistent with other provisions of this chapter, and without limiting or restricting the powers otherwise given the Authority, to exercise all the powers given to transportation district commissions by § 15.2-4518, except the right to exercise the power of eminent domain;

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

9. To establish bylaws and make all rules and regulations, not inconsistent with the provisions of this chapter, deemed expedient for the management of the Authority's affairs.

Any Authority operating within the Virginia Railway Express service area shall coordinate all train operations with the Virginia Railway Express.

No provision of this chapter shall be construed as authorizing the Authority to (i) impose fees, financial obligations, or mandates of any kind on any common carrier freight railroad without the express consent of the common carrier railroad or (ii) exercise the power of eminent domain.

Notwithstanding any other provision of this chapter, the Authority shall not enter into any lease agreement, obligation, or contractual arrangement that creates a direct or contingent financial obligation of the Commonwealth unless such agreement, obligation, or contractual arrangement has first been submitted to the State Treasurer sufficiently prior to the execution of such agreement, obligation, or contractual arrangement to allow the State Treasurer to undertake a review for the purposes of

determining (i) whether the agreement, obligation, or contractual arrangement may constitute tax-supported debt of the Commonwealth and (ii) the potential impact of the agreement, obligation, or contractual arrangement on the debt capacity and credit ratings of the Commonwealth. If after such review the State Treasurer determines that the agreement, obligation, or contractual arrangement may constitute tax-supported debt of the Commonwealth, or may have an adverse impact on the debt capacity or the credit ratings of the Commonwealth, the Authority shall be prohibited from entering into such lease agreement, obligation, or contractual arrangement.

**24. That §§ 63.2-2000, 63.2-2002, 63.2-2003, and 63.2-2006 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 16 of Title 22.1 a section numbered 22.1-335.1 as follows:**

§ 22.1-335.1. Schools for Students with Disabilities Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Schools for Students with Disabilities Fund, hereafter referred to as “the Fund.” The Fund shall be established on the books of the Comptroller. All donations, grants, bequests, gifts, and other funds that may be received, and such sums as may be appropriated by the General Assembly, shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of providing grants to licensed schools for students with disabilities. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Superintendent of Public Instruction.

The Department shall establish an application process and related procedures for schools for students with disabilities seeking grants from the Fund. The application shall set forth a general description of the students served by the school and their disabilities, the courses of instruction offered by the school, the proposed use of any grant moneys received from the Fund, the expected time frame by which grant moneys are to be used, an estimate of the number of students who will benefit from a grant award, and such other information as requested by the Department that is reasonably needed for purposes of evaluating the application.

Actions of the Department relating to the review of applications and awarding of grants shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Decisions of the Department shall be final and not subject to review or appeal.

The Department shall provide grants from the Fund in an amount not to exceed the dollar amount contained in the Fund. If moneys in the Fund are committed for years beyond the fiscal years covered under the existing appropriation act, the State Treasurer shall set aside and reserve such funds as have been committed, and such funds shall remain in the Fund for those future fiscal years. No grant shall be payable in the years beyond the existing appropriation act unless such funds are currently available in the Fund.

Persons and entities making a monetary donation to the Fund shall be eligible for tax credits as provided in §§ 63.2-2003 and 63.2-2006. The Department shall allocate tax credits among such donors in accordance with the provisions of such sections. In no case, however, shall the Department allocate more than a total of \$3 million in tax credits in any fiscal year for such monetary donations. The Department shall issue a certificate identifying the donor and the amount of the monetary donation made to the Fund for such persons' or entities' allocated tax credits.

The Board of Education is authorized to adopt regulations for the implementation of the grant program described in this section. The regulations adopted by the Board shall provide for the equitable allocation of available moneys in the Fund among the approved applications submitted by schools for students with disabilities. The regulations also shall provide procedures for the allocation of the annual limitation of \$3 million in tax credits among persons or entities making monetary donations to the Fund for fiscal years in which such donations would otherwise result in more than an aggregate total of \$3 million in tax credits under §§ 63.2-2003 and 63.2-2006.

§ 63.2-2000. Definitions.

As used in this chapter:

"Business firm" means any corporation, partnership, electing small business (Subchapter S) corporation, limited liability company, or sole proprietorship authorized to do business in this Commonwealth subject to tax imposed by Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) of Chapter 3, Chapter 12 (§ 58.1-1200 et seq.), Article 1 (§ 58.1-2500 et seq.) of Chapter 25, or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 of Title 58.1.

"Community services" means any type of counseling and advice, emergency assistance, medical care, provision of basic necessities, or services designed to minimize the effects of poverty, furnished primarily to impoverished people.

"Contracting services" means the provision, by a business firm licensed by the Commonwealth as a contractor under Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1, of labor or technical advice to aid in the development, construction, renovation, or repair of (i) homes of impoverished people or (ii) buildings used by neighborhood organizations.

"Education" means any type of scholastic instruction or scholarship assistance to an individual who is impoverished.

"Housing assistance" means furnishing financial assistance, labor, material, or technical advice to aid the physical improvement of the homes of impoverished people.

"Impoverished people" means people in Virginia approved as such by the Board. Such approval shall be made on the basis of generally recognized low - income criteria used by federal and state agencies.

"Job training" means any type of instruction to an individual who is impoverished that enables him to acquire vocational skills so that he can become employable or able to seek a higher grade of employment.

"Neighborhood assistance" means providing community services, education, housing assistance, or job training.

"Neighborhood organization" means any local, regional or statewide organization whose primary function is providing neighborhood assistance for impoverished people, and holding a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation under the provisions of §§ 501 (c) (3) and 501 (c) (4) of the Internal Revenue Code of 1986, as amended from time to time, or any organization defined as a community action agency in the Economic Opportunity Act of 1964 (42 U.S.C. § 2701 et seq.), or any housing authority as defined in § 36-3.

"Professional services" means any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal

authorization and shall include, but shall not be limited to, the personal services rendered by medical doctors, dentists, architects, professional engineers, certified public accountants and attorneys-at-law.

"School for students with disabilities" means the same as that term is defined in § 22.1-319.

"Schools for Students with Disabilities Fund" means the Fund established under § 22.1-335.1.

§ 63.2-2002. Proposals; regulations; tax credits authorized; amount for programs.

A. Any neighborhood organization may submit a proposal to the Commissioner requesting an allocation of tax credits for use by business firms making donations to the neighborhood organization. The proposal shall set forth the program to be conducted by the neighborhood organization, the impoverished people to be assisted, the estimated amount to be donated to the program and the plans for implementing the program.

B. The Board is hereby authorized to adopt regulations for the approval or disapproval of such proposals by neighborhood organizations and for determining the value of the donations. Such regulations shall contain a requirement that an annual audit be provided by the neighborhood organization as a prerequisite for approval. Such regulations shall provide for the equitable allocation of the available amount of tax credits among the approved proposals submitted by neighborhood organizations. The regulations shall also provide that at least 10 percent of the available amount of tax credits each year shall be allocated to qualified programs proposed by neighborhood organizations not receiving allocations in the preceding year; however, if the amount of tax credits for qualified programs requested by such neighborhood organizations is less than 10 percent of the available amount of tax credits, the unallocated portion of such 10 percent of the available amount of tax credits shall be allocated to qualified programs proposed by other neighborhood organizations.

C. If the Commissioner approves a proposal submitted by a neighborhood organization, the organization shall make the allocated tax credit amounts available to business firms making donations to the approved program. A neighborhood organization shall not assign or transfer an allocation of tax credits to another neighborhood organization without the approval of the Commissioner.

D. Any school for students with disabilities may submit an application to the Superintendent of Public Instruction requesting funding from the Schools for Students with Disabilities Fund (the Fund) pursuant to the provisions of § 22.1-335.1. The application shall set forth a general description of the students served by the school and their disabilities, the courses of instruction offered by the school, the

proposed use of any grant moneys received from the Fund, the expected time frame by which grant moneys are to be used, an estimate of the number of students who will benefit from a grant award, and such other information as requested by the Department of Education that is reasonably needed for purposes of evaluating the application. The Board of Education is authorized to adopt regulations in regard to such applications as provided in such section. The Department of Education shall administer the Fund.

DE. The total amount of tax credits granted for programs approved under this chapter, including credits allocated for monetary donations to the Fund, for each fiscal year shall not exceed ~~\$8 million~~ \$12 million; however, ~~\$2,750,000~~ \$3,750,000 shall be allocated to education programs conducted by neighborhood organizations and \$3 million shall be allocated for monetary donations to the Schools for Students with Disabilities Fund established under § 22.1-335.1. Such allocation of tax credits to education programs conducted by neighborhood organizations shall constitute the minimum amount of tax credits to be allocated to ~~education-such~~ programs. However, if the amount of tax credits requested by neighborhood organizations for qualified education programs is less than ~~\$2,750,000~~ \$3,750,000, the balance of such amount shall be allocated to other types of qualified programs. Tax credits shall not be authorized after fiscal year 2009.

§ 63.2-2003. Tax credit; amount; limitation; carry over.

A. The Commissioner shall certify to the Department of Taxation, or in the case of business firms subject to a tax under Article 1 (§ 58.1-2500 et seq.) of Chapter 25 or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 of Title 58.1, to the State Corporation Commission, the applicability of the tax credit provided herein for a business firm.

B. A business firm shall be eligible for a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) of Chapter 3, Chapter 12 (§ 58.1-1200 et seq.), Article 1 (§ 58.1-2500 et seq.) of Chapter 25, or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 of Title 58.1, in an amount equal to ~~forty-five percent~~ 40% of the value of (i) the money, property, professional services, and contracting services donated by the business firm during its taxable year to neighborhood organizations for programs approved pursuant to § 63.2-2002 or (ii) monetary contributions to the Schools for Students with Disabilities Fund (the Fund) subject to the annual aggregate \$3 million limitation for tax credits for monetary donations as described in subsection D. No tax credit of less than \$400 shall be

granted for any donation, and a business firm shall not be allowed a tax credit in excess of \$175,000 per taxable year. No tax credit shall be granted to any business firm for donations to a neighborhood organization providing job training or education for individuals employed by the business firm. Any tax credit not usable for the taxable year the donation was made may be carried over to the extent usable for the next five succeeding taxable years or until the full credit has been utilized, whichever is sooner. Credits granted to a partnership, electing small business (Subchapter S) corporation, or limited liability company shall be allocated to their individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

C. A tax credit shall be issued by the Commissioner to a business firm upon receipt of a certification made by a neighborhood organization to whom tax credits were allocated for an approved program pursuant to § 63.2-2002. The certification shall identify the type and value of the donation received and the business firm making the donation. A business firm shall be eligible for a tax credit under this section only to the extent that sufficient tax credits allocated to the neighborhood organization for an approved project are available.

D. No more than an aggregate of \$3 million in tax credits shall be allocated in any fiscal year by the Department of Education for monetary donations to the Fund from business firms and individuals as defined under this chapter. Subject to such limitation, the Department shall issue a certificate to eligible business firms making a monetary donation to the Fund. The certificate shall identify the business firm and the amount of the donation. The business firm shall attach the certificate to the Virginia tax return on which the credit is claimed. The Board of Education shall adopt regulations pursuant to § 22.1-335.1 for the equitable allocation of the annual limitation of \$3 million in tax credits.

§ 63.2-2006. Donations by individuals.

For purposes of this section, the term "individual" means the same as that term is defined in § 58.1-302, but excluding any individual included in the definition of a "business firm" as such term is defined in § 63.2-2000.

A. Notwithstanding any provision of this chapter limiting eligibility for tax credits, an individual making a monetary donation or a donation of marketable securities to a neighborhood organization approved under this chapter or making a monetary donation to the Schools for Students with Disabilities

Fund (the Fund), shall be eligible for a credit against taxes imposed by § 58.1-320 as provided in this section.

B. Notwithstanding any provision of this chapter specifying the amount of a tax credit, a tax credit issued to an individual making a monetary donation or a donation of marketable securities to an approved project or making a monetary donation to the Fund shall be equal to ~~45 percent of such monetary donation~~ 40% of the value of such donation; however, tax credits shall not be issued for any ~~monetary donation~~ to an approved project or to the Fund worth less than \$500 in a taxable year and no more than \$50,000 in tax credit shall be issued to an individual or to married persons in a taxable year. Notwithstanding any other provision in this chapter, such \$50,000 limitation shall not apply in any taxable year beginning in the relevant fiscal year of the Commonwealth if, after an equitable allocation of tax credits under this chapter and pursuant to § 22.1-335.1 for such relevant fiscal year, the total amount of tax credits granted for programs approved under this chapter and pursuant to § 22.1-335.1 for such fiscal year was less than \$12 million.

C. An individual shall be eligible for a tax credit under this section only to the extent that sufficient tax credits allocated to the neighborhood organization approved under this chapter are available. In addition, the allowance of tax credits for monetary donations to the Fund shall be subject to the annual aggregate \$3 million limitation for tax credits for such donations as described in subsection F.

D. The amount of credit allowed pursuant to this section, if such credit has been issued by the Department of Social Services, or allocated by the Department of Education pursuant to § 22.1-335.1, shall not exceed the tax imposed pursuant to § 58.1-320 for such taxable year. Any credit not usable for the taxable year may be carried over for credit against the individual's income taxes until the earlier of (i) the full amount of the credit is used or (ii) the expiration of the fifth taxable year after the taxable year in which the tax credit has been issued to such individual. If an individual that is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of the Code of Virginia, or has a credit carryover from a preceding taxable year, such individual shall be considered to have first utilized any credit allowed that does not have a carryover provision, and then any credit that is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.

E. A tax credit shall be issued by the Commissioner to an individual only upon receipt of a certification made by a neighborhood organization to whom tax credits were allocated for an approved program pursuant to § 63.2-2002. The certification shall identify the amount of the ~~monetary~~ donation received and the individual making the donation.

~~F. The tax credit allowed pursuant to this section shall be taken by the individual only to the extent he has not claimed a deduction for such amount on his federal income tax return. No more than an aggregate of \$3 million in tax credits shall be allocated in any fiscal year for monetary donations to the Fund from individuals and business firms as defined under this chapter. Subject to such limitation, the Department of Education shall issue a certificate to eligible individuals making a monetary donation to the Fund. The certificate shall identify the individual and the amount of the donation. The individual shall attach the certificate to the Virginia individual income tax return when claiming the tax credit. The Board of Education shall adopt regulations pursuant to § 22.1-335.1 to establish procedures for the allocation of the annual limitation of \$3 million in tax credits.~~

**25. That, for purposes of the twenty-fourth enactment of this act, any business firm that has pledged in writing on or before January 1, 2006, to a neighborhood organization to make a donation to such organization shall be eligible to receive a tax credit equal to 45% of the value of any qualifying donation that is covered under such writing, provided that the donation is made on or before January 1, 2013. Nothing in this enactment shall be interpreted or construed as affecting any other provision of the Neighborhood Assistance Act (§ 63.2-2000 et seq. of the Code of Virginia). For purposes of this enactment, the terms "business firm" and "neighborhood organization" shall mean the same as those terms are defined in § 63.2-2000 of the Code of Virginia.**

**26. That §§ 58.1-605, 58.1-606, 58.1-611.1, and 58.1-614 of the Code of Virginia are amended and reenacted as follows:**

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

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

B. The council of any city and the governing body of any county may levy a general retail sales 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 sales tax imposed by §§ 58.1-603 and 58.1-604 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 on a local sales tax.

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

D. Any local sales 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 sales tax.

E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid into the state treasury to the credit of a special fund which is hereby created on the Comptroller's books under the name "Collections of Local Sales Taxes." Such local sales tax moneys shall be credited to the account of each particular city or county levying a local sales tax under this section. The basis of such credit shall be the city or county in which the sales were made as shown by the records of the Department and certified by it monthly to the Comptroller, namely, 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. If a dealer has any place of business located in more than one political subdivision by reason of the boundary line or lines passing through such place of business, the amount of sales tax paid by such a dealer with respect to such place of business shall be treated for the purposes of this section as follows: one-half shall be assignable to each political subdivision where two are involved, one-third where three are involved, and one-fourth where four are involved.

F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in any month for the preceding month, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper amount in favor of each city or county entitled to the monthly return of its local sales tax 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 six months as follows: one-sixth of the total adjustment shall be included in the payments for the next six 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. 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 preceding school age population census, 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 census and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

H. One-half of such payments to counties are subject to the further qualification, other than as set out in subsection G above, 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 statewide school census. 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 preceding school age population census, 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 census and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

I. Notwithstanding the provisions of subsection H, 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. 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 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.

K. 1. In addition to the 1% general retail sales tax authorized by this section, Arlington County, Fairfax County, the City of Alexandria, the City of Fairfax, and the City of Falls Church may levy an additional 0.25% general retail sales tax. The governing body of any city or county desiring to impose the additional local sales tax authorized under this subsection may do so by the adoption of an ordinance, after a public hearing for which notice has been given in conformity with subsection B of § 58.1-3321, stating its purpose and referring to this subsection, and providing that such ordinance shall be effective on the first day of a month at least 90 days after its adoption, provided that such additional local sales tax may not be levied prior to July 1, 2007. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption.

2. All tax moneys collected by the Tax Commissioner and attributable to the additional local sales tax authorized under this subsection shall be paid into the state treasury to the credit of a special fund that is hereby created on the Comptroller's books under the name "Collections of Local Sales Taxes for the Washington Metropolitan Area Transit Authority." Such moneys shall be credited to the account of each particular city or county levying such additional local sales tax. The basis of such credit shall be

the city or county in which the sales were made as shown by the records of the Department and certified by it monthly to the Comptroller, namely, 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.

3. All moneys distributed to a county or city from the "Collections of Local Sales Taxes for the Washington Metropolitan Area Transit Authority" special fund shall be used solely for the city's or county's obligations to the operating deficit, capital, and debt service of the Washington Metropolitan Area Transit Authority. Such moneys shall not be available for use under § 15.2-5814 or 15.2-5914.

4. The provisions of subsections A, B, C, D, E, and F shall be applicable to the tax authorized under this subsection for purposes of the administration of, and distribution of moneys collected under, such tax.

§ 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. 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.

E. 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.

F. 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 and from the "Collections of Local Sales Taxes for the Washington Metropolitan Area Transit Authority" special fund established under subsection K of § 58.1-605. 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.

G. 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.

H. 1. In addition to the 1% use tax authorized by this section, Arlington County, Fairfax County, the City of Alexandria, the City of Fairfax, and the City of Falls Church may levy an additional 0.25% local use tax as provided in this subsection.

2. If the city or county imposes the additional local sales tax authorized by subsection K of § 58.1-605, the additional local use tax authorized under this subsection must be imposed by the governing body of the city or county. Such tax must be imposed by the same ordinance imposing the tax pursuant to subdivision K. 1. of § 58.1-605.

3. All tax moneys collected by the Tax Commissioner and attributable to the additional local use tax authorized under this subsection shall be paid into the state treasury to the credit of the "Collections of Local Sales Taxes for the Washington Metropolitan Area Transit Authority" special fund established under subdivision K. 3. of § 58.1-605. Such moneys shall be credited to the cities or counties levying the additional local use tax in the same manner that the 1% use tax is credited to the cities or counties levying that tax.

4. All moneys distributed to a county or city from the "Collections of Local Sales Taxes for the Washington Metropolitan Area Transit Authority" special fund shall be used in the manner and for the purposes described in subdivision K. 3. of § 58.1-605.

5. The provisions of subsections A, C, D, E, and F shall be applicable to the tax authorized under this subsection for purposes of the administration of, and distribution of moneys collected under, such tax.

§ 58.1-611.1. Rate of tax on sales of food purchased for human consumption.

A. The tax imposed by §§ 58.1-603 and 58.1-604 on food purchased for human consumption shall be levied and distributed as follows:

1. From January 1, 2000, through midnight on June 30, 2005, the tax rate on such food shall be three percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638, (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C and D of § 58.1-638, and (iii) the revenue from the tax at the rate of one and one-half percent shall be used for general fund purposes.

2. On and after July 1, 2005, the tax rate on such food shall be one and one-half percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638 and (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C and D of § 58.1-638.

B. The provisions of this section shall not affect the imposition of tax on food purchased for human consumption pursuant to §§ 58.1-605 and 58.1-606.

C. As used in this section, "food purchased for human consumption" has the same meaning as "food" defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that Act, except it shall not include seeds and plants which produce food for human consumption. For the purpose of this section, "food purchased for human consumption" shall not include food sold by any retail establishment where the gross receipts derived from the sale of food prepared by such retail establishment for immediate consumption on or off the premises of the retail establishment constitutes more than 80 percent of the total gross receipts of that retail establishment, including but not limited to motor fuel purchases, regardless of whether such prepared food is consumed on the premises of that retail establishment. For purposes of this section, "retail establishment" means each place of business for which any "dealer," as defined in § 58.1-612, is required to apply for and receive a certificate of registration pursuant to § 58.1-613.

D. The tax imposed pursuant to subsection K of § 58.1-605 and pursuant to subsection H of § 58.1-606 shall not apply to food purchased for human consumption.

§ 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, of such wholesale purchases; except that the dealer shall remit an amount based on 5.25% of his wholesale purchases in any city or county that imposes the additional sales tax authorized under subsection K of § 58.1-605.

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 and, if applicable, the 0.25% additional local sales and use tax provided under this chapter, 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.

**27. That the Department of Taxation shall promulgate all necessary and reasonable regulations to govern the administration of the taxes created pursuant to the twenty-sixth enactment of this act.**

**28. That the revenues generated by the provisions of the twenty-sixth enactment of this act shall not be used to calculate or reduce the share of local, federal, and state revenues otherwise available to participating jurisdictions, or to the Northern Virginia Transportation District. 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.**

**29. That the authority to impose the additional tax under the twenty-sixth enactment of this act shall only be effective in the event that matching federal funds are appropriated and distributed to the Washington Metropolitan Area Transit Authority.**

**30. That if any clause, sentence, paragraph, section, or part of the twenty-sixth enactment of this act or the application thereof to any person, entity, or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall not affect the validity of the remainder of such enactment but shall be confined to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered, and to this end the provisions of such enactment are severable.**

**31. That Chapter 1041 of the Acts of Assembly of 2003 is repealed.**

**32. That the second enactment of Chapter 940 of the Acts of Assembly of 2005 is repealed.**

**33. That the tenth enactment clauses of Chapter 1019 and Chapter 1044 of the Acts of Assembly of 2000 are repealed.**

**34. That the provisions of the eighth enactment of this act shall be effective July 1, 2006, and shall expire at midnight on June 30, 2008. The provisions of the tenth through thirty-third enactments of this act, inclusive, shall have no expiration date.**

**35. That this act is effective on its passage.**

(This amendment sets out Part 5 of the bill).