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HOUSE BILL NO. 1311

Offered January 18, 2002

A BILL to amend and reenact §§ 29.1-101, 29.1-101.01, and 58.1-638 of the Code of Virginia, relating to the distribution of state sales and use tax revenues.

Patrons—Lingamfelter, Black, Marshall, R.G. and O'Brien

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 29.1-101, 29.1-101.01, and 58.1-638 of the Code of Virginia are amended and reenacted as follows:

§ 29.1-101. Game Protection Fund.

The amount received by the State Treasurer from the sale of hunting, trapping and fishing licenses, revenue generated from the sales and use tax pursuant to subsection EF of § 58.1-638, and such other items as may accrue to the Board shall be set aside and shall constitute the Game Protection Fund. The income and principal of this Fund, including any unexpended balance, shall be a separate fund in the state treasury and shall only be used for the payment of the salaries, allowances, wages, and expenses incident to carrying out the provisions of the hunting, trapping and inland fish laws and for no other purpose, except as provided in §§ 29.1-101.01, 29.1-701, 58.1-345 and 58.1-1410.

§ 29.1-101.01. Capital Improvement Fund.

There is hereby created in the state treasury a special, nonreverting fund to be known as the Capital Improvement Fund, hereafter referred to as "the Fund." The Fund shall consist of those funds that may be so designated by the Board and any gifts, grants, and contributions from any person, foundation, or other legal entity. In addition, the Board may transfer to this Fund an amount equal to fifty percent or less of the revenue generated annually from the sales and use tax which has been deposited in the Game Protection Fund pursuant to subsection EF of § 58.1-638. The income and principal in the Fund shall be used only for the purchase, construction, maintenance, or repair of capital assets of the Department.

The Fund shall be established on the books of the Comptroller. All moneys received shall be paid into the state treasury and credited to the Fund. Interest earned on the moneys in the Fund shall remain in the Fund and be credited to the 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, except as provided in subsection EF of § 58.1-638.

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

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

1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided in this section, to the Transportation Trust Fund as defined in § 33.1-23.03:1. Of the funds paid to the Transportation Trust Fund, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund as provided in this section; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund as provided in this section; and an aggregate of 14.5 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 as provided in this section. The Fund's share of such net revenue shall be computed as an estimate of the net revenue to be received into the state treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall be made to the Fund on the last day of each month.

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

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

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

c. Commonwealth Port Fund revenue shall be allocated by the Board of Commissioners to the

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59 Virginia Port Authority in order to foster and stimulate the flow of maritime commerce through the
60 ports of Virginia, including but not limited to the ports of Richmond, Hopewell and Alexandria.

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

71 Any new funds in excess of \$12.1 million which are available for allocation by the Virginia Aviation
72 Board from the Commonwealth Transportation Fund, shall be allocated as follows: sixty percent to
73 MWAA, up to a maximum annual amount of two million dollars, and forty percent to air carrier airports
74 as provided in subdivision A 3 a. Except for adjustments due to changes in enplaned passengers, no air
75 carrier airport sponsor, excluding MWAA, shall receive less funds identified under subdivision A 3 a
76 than it received in fiscal year 1994-1995.

77 Of the remaining amount:

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

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

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

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

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

94 b. The amounts allocated pursuant to this section shall be used to support the public transportation
95 administrative costs and the costs borne by the locality for the purchase of fuels, lubricants, tires and
96 maintenance parts and supplies for public transportation at a state share of eighty percent in 2002 and
97 ninety-five percent in 2003 and succeeding years. These amounts may be used to support up to
98 ninety-five percent of the local or nonfederal share of capital project costs for public transportation and
99 ridesharing equipment, facilities, and associated costs. Capital costs may include debt service payments
100 on local or agency transit bonds. The term "borne by the locality" means the local share eligible for
101 state assistance consisting of costs in excess of the sum of fares and other operating revenues plus
102 federal assistance received by the locality.

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

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

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

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

113 (a) To finance up to ninety-five percent of the capital costs related to the development,
114 implementation and promotion of experimental public transportation and ridesharing projects approved
115 by the Board.

116 (b) To finance up to ninety-five percent of the operating costs of experimental mass transportation
117 and ridesharing projects approved by the Board for a period of time not to exceed twelve months.

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

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

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

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

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

f. The remaining twenty-five percent shall be distributed for capital purposes on the basis of ninety-five percent of the nonfederal share for federal projects and ninety-five percent of the total costs for nonfederal projects. In the event that total capital funds available under this subdivision are insufficient to fund the complete list of eligible projects, the funds shall be distributed to each transit property in the same proportion that such capital expenditure bears to the statewide total of capital projects.

g. There is hereby created in the Department of the Treasury a special nonreverting fund known as the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be established on the books of the Comptroller and consist of such moneys as are appropriated to it by the General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given, bequeathed, granted, or otherwise made available to the Commonwealth Transit Capital Fund. Any funds remaining in the Commonwealth Transit Capital Fund at the end of the biennium shall not revert to the general fund, but shall remain in the Commonwealth Transit Capital Fund. Interest earned on funds within the Commonwealth Transit Capital Fund shall remain in and be credited to the Commonwealth Transit Capital Fund. Proceeds of the Commonwealth Transit Capital Fund may be paid to any political subdivision, another public entity created by an act of the General Assembly, or a private entity as defined in § 56-557 and for purposes as enumerated in subdivision 4c of § 33.1-269 or expended by the Department of Rail and Public Transportation for the purposes specified in this subdivision. Revenues of the Commonwealth Transit Capital Fund shall be used to support capital expenditures involving the establishment, improvement, or expansion of public transportation services through specific projects approved by the Commonwealth Transportation Board. Projects financed by the Commonwealth Transit Capital Fund shall receive local, regional or private funding for at least twenty percent of the nonfederal share of the total project cost.

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

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

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

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

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

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

D. The net revenue so distributable among the counties and cities shall be apportioned and distributed upon the basis as certified to the Comptroller by the Department of Education, of the number of children in each county and city according to the most recent statewide census of school population taken by the Department of Education pursuant to § 22.1-284, as adjusted in the manner hereinafter

182 provided. No special school population census, other than a statewide census, shall be used as the basis
183 of apportionment and distribution except that in any calendar year in which a statewide census is not
184 reported, the Department of Education shall adjust such school population figures by the same percent of
185 annual change in total population estimated for each locality by The Center for Public Service. The
186 revenue so apportionable and distributable is hereby appropriated to the several counties and cities for
187 maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the
188 operation of the public schools, which shall be considered as funds raised from local resources. In any
189 county, however, wherein is situated any incorporated town constituting a school division, the county
190 treasurer shall pay into the town treasury for maintenance, operation, capital outlays, debt and interest
191 payments, or other expenses incurred in the operation of the public schools, the proper proportionate
192 amount received by him in the ratio that the school population of such town bears to the school
193 population of the entire county. If the school population of any city or of any town constituting a school
194 division is increased by the annexation of territory since the last preceding school population census,
195 such increase shall, for the purposes of this section, be added to the school population of such city or
196 town as shown by the last such census and a proper reduction made in the school population of the
197 county or counties from which the annexed territory was acquired.

198 *E. Beginning July 1, 2002, the sales and use tax revenue generated by a one-half percent sales and*
199 *use tax on sales in Arlington County, Fairfax County, Loudoun County, Prince William County, the City*
200 *of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of*
201 *Manassas Park shall be distributed to each such city and county based upon the city or county in which*
202 *the sale was made in the manner provided in subsections E and F of § 58.1-605. The revenue*
203 *distributed pursuant to this subsection shall be used by each such county and city solely for*
204 *transportation projects in the 2020 Plan of the Transportation Coordinating Council of Northern*
205 *Virginia that are scheduled to be completed by 2010.*

206 *EF. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a*
207 *two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of*
208 *hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment,*
209 *wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the*
210 *most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of*
211 *Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated*
212 *Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used,*
213 *in part, to defray the cost of law enforcement. Not later than thirty days after the close of each quarter,*
214 *the Comptroller shall transfer to the Game Protection Fund the appropriate amount of collections to be*
215 *dedicated to such Fund. At any time that the balance in the Capital Improvement Fund, established*
216 *under § 29.1-101.1, is equal to or in excess of \$35 million, any portion of sales and use tax revenues*
217 *that would have been transferred to the Game Protection Fund, established under § 29.1-101, in excess*
218 *of the net operating expenses of the Board, after deduction of other amounts which accrue to the Board*
219 *and are set aside for the Game Protection Fund, shall remain in the general fund until such time as the*
220 *balance in the Capital Improvement Fund is less than \$35 million.*

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

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