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**HOUSE BILL NO. 1852**

Offered January 8, 2003

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*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 sales and use tax revenues.*

Patron—Lingamfelter

Referred to Committee on Appropriations

**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.

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

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

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

78 Of the remaining amount:

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

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

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

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

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

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

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

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

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

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

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

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

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

121 use of public transportation services.

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

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

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

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

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

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

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

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

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

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

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

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

179 D. The net revenue so distributable among the counties and cities shall be apportioned and  
180 distributed upon the basis as certified to the Comptroller by the Department of Education, of the number  
181 of children in each county and city according to the most recent statewide census of school population

182 taken by the Department of Education pursuant to § 22.1-284, as adjusted in the manner hereinafter  
183 provided. No special school population census, other than a statewide census, shall be used as the basis  
184 of apportionment and distribution except that in any calendar year in which a statewide census is not  
185 reported, the Department of Education shall adjust such school population figures by the same percent of  
186 annual change in total population estimated for each locality by The Center for Public Service. The  
187 revenue so apportionable and distributable is hereby appropriated to the several counties and cities for  
188 maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the  
189 operation of the public schools, which shall be considered as funds raised from local resources. In any  
190 county, however, wherein is situated any incorporated town constituting a school division, the county  
191 treasurer shall pay into the town treasury for maintenance, operation, capital outlays, debt and interest  
192 payments, or other expenses incurred in the operation of the public schools, the proper proportionate  
193 amount received by him in the ratio that the school population of such town bears to the school  
194 population of the entire county. If the school population of any city or of any town constituting a school  
195 division is increased by the annexation of territory since the last preceding school population census,  
196 such increase shall, for the purposes of this section, be added to the school population of such city or  
197 town as shown by the last such census and a proper reduction made in the school population of the  
198 county or counties from which the annexed territory was acquired.

199 *E. 1. Beginning July 1, 2003, the sales and use tax revenue generated by a one-half percent sales*  
200 *and use tax, up to an annual maximum of \$50 million, on sales in Arlington County, Fairfax County,*  
201 *Loudoun County, Prince William County, the City of Alexandria, the City of Fairfax, the City of Falls*  
202 *Church, the City of Manassas, and the City of Manassas Park shall be deposited into a special*  
203 *nonreverting fund that is hereby created in the Department of the Treasury, which shall be a part of the*  
204 *Transportation Trust Fund and shall be known as the Northern Virginia Regional Transportation Fund.*  
205 *The Northern Virginia Regional Transportation Fund shall be established on the books of the*  
206 *Comptroller and any funds remaining in such Fund at the end of the biennium shall not revert to the*  
207 *general fund but shall remain in the Fund. Interest earned on such funds shall be credited to the Fund.*  
208 *The Commonwealth Transportation Board shall use amounts in the Fund solely to pay for regional*  
209 *transportation projects within the region encompassed by the counties and cities set forth in this*  
210 *subdivision using the criteria set forth in subdivision 4.*

211 *2. Beginning July 1, 2003, the sales and use tax revenue generated by a one-half percent sales and*  
212 *use tax, up to an annual maximum of \$50 million, on sales in Isle of Wight County, James City County,*  
213 *York County, the City of Chesapeake, the City of Hampton, the City of Newport News, the City of*  
214 *Norfolk, the City of Poquoson, the City of Portsmouth, the City of Suffolk, the City of Virginia Beach,*  
215 *and the City of Williamsburg shall be deposited into a special nonreverting fund that is hereby created*  
216 *in the Department of the Treasury, which shall be a part of the Transportation Trust Fund and shall be*  
217 *known as the Hampton Roads Regional Transportation Fund. The Hampton Roads Regional*  
218 *Transportation Fund shall be established on the books of the Comptroller and any funds remaining in*  
219 *such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund.*  
220 *Interest earned on such funds shall be credited to the Fund. The Commonwealth Transportation Board*  
221 *shall use amounts in the Fund solely to pay for regional transportation projects within the region*  
222 *encompassed by the counties and cities set forth in this subdivision using the criteria set forth in*  
223 *subdivision 4.*

224 *3. Beginning July 1, 2003, the sales and use tax revenue generated by a one-half percent sales and*  
225 *use tax, up to an annual maximum of \$20 million, on sales in Augusta County, Botetourt County,*  
226 *Frederick County, Montgomery County, Pulaski County, Roanoke County, Rockbridge County,*  
227 *Rockingham County, Shenandoah County, Smyth County, Warren County, Washington County, Wythe*  
228 *County, the City of Bristol, the City of Harrisonburg, the City of Radford, the City of Salem, the City of*  
229 *Staunton, and the City of Winchester shall be deposited into a special nonreverting fund that is hereby*  
230 *created in the Department of the Treasury which shall be a part of the Transportation Trust Fund and*  
231 *shall be known as the Interstate 81 Corridor Transportation Fund. The Interstate 81 Regional*  
232 *Transportation Fund shall be established on the books of the Comptroller, and any funds remaining in*  
233 *such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund.*  
234 *Interest earned on such funds shall be credited to the Fund. The Commonwealth Transportation Board*  
235 *shall use amounts in the Fund solely to pay for regional transportation projects within the region*  
236 *encompassed by the counties and cities set forth in this subdivision using the criteria set forth in*  
237 *subdivision 4.*

238 *4. In designating transportation projects to fund pursuant to subdivisions 1, 2, and 3, the*  
239 *Commonwealth Transportation Board shall use the following criteria: (i) projects that will reduce poor*  
240 *air quality; (ii) projects that will reduce traffic congestion; and (iii) projects that will aid the safety of*  
241 *motorists or pedestrians.*

242 *F. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a*  
243 *two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of*

244 hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment,  
245 wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the  
246 most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of  
247 Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated  
248 Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used,  
249 in part, to defray the cost of law enforcement. Not later than thirty days after the close of each quarter,  
250 the Comptroller shall transfer to the Game Protection Fund the appropriate amount of collections to be  
251 dedicated to such Fund. At any time that the balance in the Capital Improvement Fund, established  
252 under § 29.1-101.1, is equal to or in excess of \$35 million, any portion of sales and use tax revenues  
253 that would have been transferred to the Game Protection Fund, established under § 29.1-101, in excess  
254 of the net operating expenses of the Board, after deduction of other amounts which accrue to the Board  
255 and are set aside for the Game Protection Fund, shall remain in the general fund until such time as the  
256 balance in the Capital Improvement Fund is less than \$35 million.

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

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

262 **2. That no moneys distributed pursuant to this act shall be used to calculate or reduce the share**  
263 **of federal, state, or local revenues or funds otherwise available to any county or city, including,**  
264 **but not limited to, state basic aid payments.**