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**SENATE BILL NO. 356**

Offered January 14, 2004

Prefiled January 14, 2004

*A BILL to amend and reenact §§ 58.1-2402 and 58.1-2425 of the Code of Virginia, to amend the Code of Virginia by adding in Title 15.2 a chapter numbered 48.3, consisting of sections numbered 15.2-4850 through 15.2-4862, and to repeal Chapter 48.2 (§ 15.2-4829 et seq.) of Title 15.2, relating to the creation of a transportation authority for each of the nine construction districts and dedicating revenues from increases in the motor vehicle sales and use tax for funding of such transportation authorities, and empowering such transportation authorities to plan and provide for the transportation needs of the counties and cities embraced by each transportation authority.*

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 Referred to Committee on Finance
 

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**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-2402 and 58.1-2425 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 15.2 a chapter numbered 48.3, consisting of sections numbered 15.2-4850 through 15.2-4862, as follows:**

**CHAPTER 48.3****TRANSPORTATION AUTHORITIES OF THE COMMONWEALTH.**

*§ 15.2-4850. Short title.*

*This chapter shall be known and may be cited as the Transportation Authorities of the Commonwealth Act.*

*§ 15.2-4851. Authorities created.*

*There is hereby created as separate political subdivisions of the Commonwealth, for each of the construction districts set forth in § 33.1-2, the following transportation authorities: Bristol Transportation Authority, Culpeper Transportation Authority, Fredericksburg Transportation Authority, Hampton Roads Transportation Authority, Lynchburg Transportation Authority, Northern Virginia Transportation Authority, Richmond Transportation Authority, Salem Transportation Authority, and Staunton Transportation Authority.*

*A. 1. The Bristol Transportation Authority shall consist of the Counties of Bland, Buchanan, Dickenson, Grayson, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe; and the Cities of Bristol and Norton.*

*2. The Culpeper Transportation Authority shall consist of the Counties of Albemarle, Culpeper, Fauquier, Fluvanna, Greene, Louisa, Madison, Orange, and Rappahannock; and the City of Charlottesville.*

*3. The Fredericksburg Transportation Authority shall consist of the Counties of Caroline, Essex, Gloucester, King George, King and Queen, King William, Lancaster, Mathews, Middlesex, Northumberland, Richmond, Spotsylvania, Stafford, and Westmoreland; and the City of Fredericksburg.*

*4. The Hampton Transportation Authority shall consist of the Counties of Accomack, Greensville, Isle of Wight, James City, Northampton, Southampton, Surry, Sussex, and York; and the Cities of Emporia, Hampton, Newport News, Norfolk, Portsmouth, Chesapeake, Suffolk, Virginia Beach, Williamsburg, Franklin, and Poquoson.*

*5. The Lynchburg Transportation Authority shall consist of the Counties of Amherst, Appomattox, Buckingham, Campbell, Charlotte, Cumberland, Halifax, Nelson, Pittsylvania, and Prince Edward; and the Cities of Danville and Lynchburg.*

*6. The Northern Virginia Transportation Authority shall consist of the Counties of Arlington, Fairfax, Loudoun, and Prince William; and the Cities of Alexandria, Falls Church, Fairfax, Manassas and Manassas Park.*

*7. The Richmond Transportation Authority shall consist of the Counties of Amelia, Brunswick, Charles City, Chesterfield, Dinwiddie, Goochland, Hanover, Henrico, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, and Prince George; and the Cities of Colonial Heights, Hopewell, Petersburg, and Richmond.*

*8. The Salem Transportation Authority shall consist of the Counties of Bedford, Botetourt, Carroll, Craig, Floyd, Franklin, Giles, Henry, Montgomery, Patrick, Pulaski, and Roanoke; and the Cities of Galax, Martinsville, Radford, Roanoke, Salem, and Bedford.*

*9. The Staunton Transportation Authority shall consist of the Counties of Alleghany, Augusta, Bath, Clarke, Frederick, Highland, Page, Rockbridge, Rockingham, Shenandoah, and Warren; and the Cities*

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59 of Buena Vista, Covington, Harrisonburg, Lexington, Staunton, Waynesboro, and Winchester.

60 B. The net additional revenues generated from increases in the rate of the motor vehicle sales and  
61 use tax pursuant to Chapter 24 (§ 58.1-2400 et seq.) of Title 58.1 that became effective on January 1,  
62 2005, shall be distributed to the Authorities created herein. Each Authority share of such revenues shall  
63 be said revenues that are attributable to (i) motor vehicles that are sold or rented in the counties and  
64 cities that are embraced by the Authority, and (ii) in cases where a motor vehicle is sold or rented from  
65 a location outside the Commonwealth, the motor vehicle sales and use tax that is collected from a  
66 person, when applying for a title to a motor vehicle, who lists his residence as being within a county or  
67 city that is embraced by the Authority. For purposes of clause (i) in the case of a sale or rental of a  
68 motor vehicle between individuals or entities both of whom are not required to be licensed as dealers or  
69 salespersons under the provisions of § 46.2-1508 or § 46.2-1908, the place of sale or rental shall be the  
70 residence of the person or entity that is selling the motor vehicle or leasing or renting it to another  
71 person.

72 C. The net additional revenues described in subsection B collected by the Commissioner of the  
73 Department of Motor Vehicles shall be paid into the state treasury to the credit of a special fund that is  
74 hereby created on the Comptroller's books under the name "Collections of Motor Vehicle Sales and Use  
75 Taxes for Transportation Authorities." Such revenues shall be credited to the account of each particular  
76 Transportation Authority as provided in subsection B. The basis of such credit shall be the records of  
77 the Department as certified monthly by the Commissioner of the Department of Motor Vehicles to the  
78 Comptroller. The written certification shall cover such revenues collected by the Commissioner during  
79 the month. The Commissioner shall make such certification for each month no later than the tenth day  
80 of the immediately following month.

81 As soon as practicable after receipt of such certification but no later than 10 days after receipt, the  
82 Comptroller shall draw his warrant on the Treasurer of Virginia in the proper amount in favor of the  
83 Transportation Authority entitled to such revenues as provided herein, and such payments shall be  
84 charged to the account of each such Transportation Authority under the special fund created by this  
85 section. If errors are made in any such payment, or adjustments are otherwise necessary, whether  
86 attributable to refunds of motor vehicle sales and use taxes or to some other fact, the errors shall be  
87 corrected and adjustments made in the payments as soon as practical in subsequent monthly payments.  
88 In addition, such payments shall include a refund of amounts erroneously not paid to any  
89 Transportation Authority and not previously refunded during the three years preceding the discovery of  
90 the error. A correction and adjustment in payments described in this subsection due to the misallocation  
91 of funds by a licensed dealer or salesperson shall be made within three years of the date of the payment  
92 error.

93 D. Each Transportation Authority created herein shall have the powers, duties, responsibilities, and  
94 organizational structure as set forth in §§ 15.2-4852 through 15.2-4862.

95 § 15.2-4852. General powers and functions.

96 In addition to such other powers vested in the Authority by this chapter, the Authority shall have the  
97 following powers and functions:

98 1. The Authority shall prepare a regional transportation plan for the counties and cities comprising  
99 the Authority, to include, but not necessarily be limited to, transportation improvements of regional  
100 significance, and those improvements necessary or incidental thereto, and shall from time to time revise  
101 and amend the plan. The provisions of Article 7 (§ 15.2-4527 et seq.) of Chapter 45 of this title shall  
102 apply, mutatis mutandis, to the preparation of such transportation plan.

103 2. The Authority may, when a transportation plan is adopted according to subdivision 1, construct or  
104 acquire, by purchase, lease, contract, or otherwise, the transportation facilities specified in such  
105 transportation plan.

106 3. The Authority may enter into agreements or leases with public or private entities for the operation  
107 of its facilities, or may operate such facilities itself.

108 4. The Authority may enter into contracts or agreements with the counties and cities embraced by the  
109 Authority, with other transportation commissions of transportation districts adjoining any county or city  
110 embraced by the Authority, with any other transportation authority, or with any state, local, private or  
111 federal entity to provide, or cause to be provided, transit facilities and service to such counties and  
112 cities, or to provide transit facilities and other modes of transportation between any county or city  
113 embraced by the Authority and any adjoining transportation district, county, or city. Such contracts or  
114 agreements, together with any agreements or leases for the operation of such facilities, may be used by  
115 the Authority to finance the construction and operation of transportation facilities and such contracts,  
116 agreements or leases shall inure to the benefit of any creditor of the Authority.

117 Notwithstanding the above, however, the Authority shall not have the power to regulate services  
118 provided by taxicabs, either within municipalities or across municipal boundaries, which regulation is  
119 expressly reserved to the municipalities within which taxicabs operate.

120 5. Notwithstanding any other provision of law to the contrary the Authority may:

a. Acquire land or any interest therein by purchase, lease, contract, or gift and provide transportation facilities thereon for use in connection with any transportation service;

b. Acquire land or any interest therein by purchase, lease, contract, or gift in advance of the need for sale or contribution to an agency, for use by that agency in connection with an adopted transportation plan; and

c. Prepare a plan for mass transportation services with persons, cities, counties, agencies, authorities, or transportation commissions and may further contract with any such person or other entity to provide necessary facilities, equipment, operations and maintenance, access, and insurance pursuant to such plan.

§ 15.2-4853. Composition of Authority; Chairman and Vice Chairman.

The Authority shall consist of the following members:

The chief-elected officer of the governing body of each county and city embraced by the Authority or, in the discretion of the chief-elected officer, his designee, who shall be a current elected officer of such governing body;

Two members of the House of Delegates who reside in different counties or cities embraced by the Authority, appointed by the Speaker of the House, to the extent practicable, from the membership of the House Committee on Appropriations, the House Committee on Finance, or the House Committee on Transportation;

One member of the Senate who resides in a county or city embraced by the Authority, appointed by the Senate Committee on Privileges and Elections, to the extent practicable, from the membership of the Senate Committee on Finance and the Senate Committee on Transportation; and

Two citizens who reside in counties and cities embraced by the Authority, appointed by the Governor. One gubernatorial appointment shall include, if applicable, a member of the Commonwealth Transportation Board who resides in a county or city embraced by the Authority. The remaining gubernatorial appointment shall be a person who has significant experience in transportation planning, finance, engineering, construction, or management and shall be a resident of a county or city embraced by the Authority, but shall not be a resident of the same county or city as the other gubernatorial appointee to the Authority.

Each member of the Authority shall serve for a term of four years. However, the Authority may adopt staggered terms.

In addition, the Commonwealth Transportation Commissioner, or his designee, shall serve as a nonvoting member of the Authority.

The Authority shall appoint the chairman and vice chairman.

§ 15.2-4854. Staff.

The Authority shall employ a chief executive officer and such staff as it shall determine to be necessary to carry out its duties and responsibilities under this chapter. No such person shall contemporaneously serve as a member of the Authority. The Virginia Department of Transportation and the Virginia Department of Rail and Public Transportation shall make their employees available to assist the Authority, upon request.

§ 15.2-4855. Decisions of Authority.

A majority of the Authority, which majority shall include at least a majority of the representatives of the counties and cities embraced by the Authority, shall constitute a quorum. Decisions of the Authority shall require a quorum and shall be in accordance with voting procedures established by the Authority. In all cases, decisions of the Authority shall require the affirmative vote of a majority of the members of the Authority present and voting, and a majority of the representatives of the counties and cities embraced by the Authority who are present and voting and whose counties and cities include at least a majority of the population embraced by the Authority. The population of counties and cities embraced by the Authority shall be the population as determined by the most recently preceding decennial census, or the provisional population estimates for counties and cities as published by the Weldon Cooper Center for Public Services, whichever is most recent at the time of decision.

§ 15.2-4856. Allocation of certain Authority expenses among component counties and cities.

The administrative expenses of the Authority, as provided in an annual budget adopted by the Authority, to the extent funds for such expenses are not provided from other sources, shall be allocated among the component counties and cities on the basis of the relative population, as determined pursuant to § 15.2-4855. Such budget shall be limited solely to the administrative expenses of the Authority and shall not include any funds for construction or acquisition of transportation facilities or the performing of any transportation service.

§ 15.2-4857. Payment to members of Authority.

The members of the Authority may be paid for their services a per diem in either (i) the amount provided in the general appropriation act for members of the General Assembly engaged in legislative business between sessions or (ii) a lesser amount as determined by the Authority.

182 § 15.2-4858. *Formation of advisory committees.*

183 *The Authority may create a technical advisory committee, which shall consist of individuals who*  
184 *reside or are employed in counties and cities embraced by the Authority and have experience in*  
185 *transportation planning, finance, engineering, construction, or management. The members of the*  
186 *committee shall be appointed by the Authority.*

187 *The technical advisory committee shall advise and provide recommendations on the development of*  
188 *projects as required by § 15.2-4859 and funding strategies and other matters as directed by the*  
189 *Authority.*

190 *The Authority may form additional advisory committees.*

191 § 15.2-4859. *Responsibilities of Authority for long-range transportation planning.*

192 *A. The Authority shall be responsible for long-range transportation planning for regional*  
193 *transportation projects in the counties and cities embraced by the Authority. In carrying out this*  
194 *responsibility, the Authority shall, on the basis of a regional consensus, whenever possible, set regional*  
195 *transportation policies and priorities for regional transportation projects. The policies and priorities*  
196 *shall be guided by performance-based criteria such as the ability to improve travel times, reduce delays,*  
197 *connect regional activity centers, improve safety, improve air quality, and move the most people in the*  
198 *most cost-effective manner.*

199 *B. The Authority shall report annually to the General Assembly and the Governor on (i) the*  
200 *allocation and expenditure of all moneys distributed to it, (ii) use of these moneys to reduce traffic*  
201 *congestion in the counties and cities embraced by the Authority, and (iii) use of these moneys to*  
202 *improve air quality in such counties and cities.*

203 § 15.2-4860. *Authority to issue bonds.*

204 *The Authority may issue bonds and other evidences of debt as may be authorized by law. The*  
205 *provisions of Article 5 (§ 15.2-4519 et seq.) of Chapter 45 of this title shall apply, mutatis mutandis, to*  
206 *the issuance of such bonds or other debt. Such bonds may be secured by the Authority's share of the*  
207 *revenues described in § 15.2-4851.*

208 § 15.2-4861. *Other duties and responsibilities of Authority.*

209 *In addition to other powers herein granted, the Authority shall have the following duties and*  
210 *responsibilities:*

211 *1. General oversight of regional programs of the Virginia Department of Transportation and/or the*  
212 *Virginia Department of Rail and Public Transportation involving mass transit or congestion mitigation,*  
213 *including, but not necessarily limited to, carpooling, vanpooling, and ridesharing;*

214 *2. Long-range regional planning, both financially constrained and unconstrained;*

215 *3. Recommending to state, regional, and federal agencies regional transportation priorities, including*  
216 *public-private transportation projects, and funding allocations;*

217 *4. Developing, in coordination with affected counties and cities, regional priorities and policies*  
218 *affecting air quality and general environmental issues;*

219 *5. Allocating to priority regional transportation projects any funds made available to the Authority*  
220 *by the General Assembly or the Commonwealth Transportation Board and directly overseeing such*  
221 *projects;*

222 *6. Recommending to the Commonwealth Transportation Board priority regional transportation*  
223 *projects for receipt of federal and state funds;*

224 *7. Recommending to the Commonwealth Transportation Board use or changes in use, or both, of*  
225 *tolls for facilities in the area embraced by the Authority;*

226 *8. General oversight of regional transportation operational issues of a multijurisdictional nature,*  
227 *including but not limited to intelligent transportation systems, signalization, and preparation for and*  
228 *response to emergencies;*

229 *9. Serving as an advocate for the transportation needs of the counties and cities embraced by the*  
230 *Authority before the state and federal governments;*

231 *10. Applying to and negotiating with the government of the United States, the Commonwealth of*  
232 *Virginia, or any agency or instrumentality thereof, for grants and any other funds available to carry out*  
233 *the purposes of this chapter and receiving, holding, accepting, and administering from any source gifts,*  
234 *bequests, grants, aid, or contributions of money, property, labor, or other things of value to be held,*  
235 *used and applied to carry out the purposes of this chapter subject, however, to any conditions upon*  
236 *which gifts, bequests, grants, aid, or contributions are made. Unless otherwise restricted by the terms of*  
237 *the gift, bequest, or grant, the Authority may sell, exchange, or otherwise dispose of such money,*  
238 *securities, or other property given or bequeathed to it in furtherance of its purposes; and*

239 *11. Acting as a "responsible public entity" for the purpose of the acquisition, construction,*  
240 *improvement, maintenance or operation, or both, of a "qualifying transportation facility" under the*  
241 *Public-Private Transportation Act of 1995 (§ 56-556 et seq.).*

242 § 15.2-4862. *No consent needed for Authority to act.*

243 *The power, duties, and responsibilities of an Authority pursuant to this chapter may be undertaken*

by the Authority without obtaining the consent of any commission, board, bureau or agency of the Commonwealth or of any governmental subdivision, and without any referendum, other proceedings or the happening of other conditions except for those proceedings or conditions which are specifically required by this chapter.

§ 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~~ Five percent 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~~ five 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~~ four percent of the sale price of each mobile office sold in this Commonwealth.

2. ~~Three~~ Five percent of the sale price of each motor vehicle, or ~~three~~ five percent of the sale price of each manufactured home as defined in § 36-85.3, or ~~two~~ four 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. 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~~ Six 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~~ six 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. The minimum tax levied on the sale of any motor vehicle in the Commonwealth shall be ~~thirty-five dollars~~ \$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) *an amount equivalent to the net additional revenues generated from increases in the rate of tax imposed by this chapter that became effective on January 1, 2005, shall be distributed to the transportation authority for each construction district of this Commonwealth as provided in Chapter 48.3 (§ 15.2-4850 et seq.) of Title 15.2 and* (v) except as otherwise provided in ~~clause (iii) of this sentence~~ *clauses (iii) and (iv)*, 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 set aside in a special fund within the Commonwealth Transportation Fund to be used to meet the expenses of the Department of Motor Vehicles.

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.

**2. That any revenues distributed to an Authority pursuant to this act shall not be used to calculate or reduce the share of federal, state, or local revenues or funds otherwise available to counties and cities of this Commonwealth, nor shall they be used to calculate or reduce any allocation of revenues or funds made pursuant to Title 33.1 of the Code of Virginia. Such share or allocation of revenues or funds that shall not be reduced includes, but is not limited to, state basic aid payments.**

**3. That Chapter 48.2 (§ 15.2-4829 et seq.) of Title 15.2 is repealed effective January 1, 2005.**

**4. That the provisions of this act are effective January 1, 2005.**