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SENATE BILL NO. 413

Offered January 13, 2010

Prefiled January 13, 2010

A BILL to amend and reenact §§ 15.2-3207, 15.2-3525, 15.2-3806, 15.2-3906, 15.2-4105, 22.1-261, 37.2-713, 58.1-605, and 58.1-638 of the Code of Virginia and to repeal Article 4 (§§ 22.1-281 through 22.1-286) of Chapter 14 of Title 22.1 of the Code of Virginia, relating to the triennial census of school population.

Patrons—Vogel and Herring

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-3207, 15.2-3525, 15.2-3806, 15.2-3906, 15.2-4105, 22.1-261, 37.2-713, 58.1-605, and 58.1-638 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-3207. Pretrial conference; matters considered.

The special court shall, prior to hearing any case under this chapter, direct the attorneys for the parties to appear before it, or in its discretion before a single judge for a conference to consider:

1. Simplification of the issues;

2. Amendment of pleadings and filing of additional pleadings;

3. Stipulations as to facts, documents, records, photographs, plans and like matters, which will dispense with formal proof thereof, including:

a. Assessed values and the ratio of assessed values to true values as determined by the State Department of Taxation in the area sought to be annexed, city or town and county, including real property, personal property, machinery and tools, merchants' capital and public service corporation assessment for each year of the five years immediately preceding;

b. Tax rate for the five years next preceding in the area sought, including any sanitary district therein, and in the city or town;

c. School population and school enrollment in the county, in the area sought, and in the city or town, as shown~~, respectively, by the triennial census of school population and~~ by the records in the office of the division superintendent of schools; and cost of education per pupil in average daily membership as shown by the last preceding report of the Superintendent of Public Instruction;

4. Estimated population of the county, the area sought and the city or town;

5. Limitation on the number of expert witnesses; each expert witness who will testify shall file a statement of his qualifications;

6. Such other matters as may aid in the disposition of the case.

The court, or judge as the case may be, shall make an appropriate order which will control the subsequent conduct of the case unless modified before or at the trial or hearing to prevent manifest injustice.

§ 15.2-3525. Pretrial conference; matters considered.

The special court shall, prior to hearing any case under this article for the establishment of a consolidated city, direct the attorneys for the parties to appear before it, or, in its discretion, before a single judge for a conference to consider:

1. Simplification of the issues;

2. Amendment of pleadings and filing of additional pleadings;

3. Stipulations as to facts, documents, records, photographs, plans and like matters, which will dispense with formal proof thereof, including:

a. The assessed values and the ratio of assessed values to true values as determined by the State Department of Taxation in the counties, cities and towns proposing to consolidate, including real property, personal property, machinery and tools, merchants' capital and public service corporation assessments for each year of the five years immediately preceding;

b. The school population and school enrollment in the area proposing to consolidate, as shown~~, respectively, by the triennial census of school population and~~ by the records in the office of the division superintendent of schools; and the cost of education per pupil in average daily membership as shown by the last preceding report of the Superintendent of Public Instruction; and

c. The population and the density of population of the area proposing to consolidate;

4. The method of taking any population census requested by the petitioner;

5. Limitation on the number of expert witnesses, as well as requiring each expert witness who will testify to file a statement of his qualifications;

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6. Such other matters as may aid in the disposition of the case.

The court, or the judge as the case may be, shall make an appropriate order which will control the subsequent conduct of the case unless modified before or at the trial or hearing to prevent manifest injustice.

§ 15.2-3806. Pretrial conference; matters considered.

The special court shall, prior to hearing any case under this chapter, direct the attorneys for the parties to appear before it or, in its discretion, before a single judge, for a conference to consider:

1. Simplification of the issues;

2. Amendment of pleadings and filing of additional pleadings;

3. Stipulations as to facts, documents, records, photographs, plans and like matters, which will dispense with formal proof thereof, including:

a. Assessed values and the ratio of assessed values to true values, as determined by the State Department of Taxation, in the town seeking to become a city and in the remaining portion of the county including real property, personal property, machinery and tools, merchants' capital and public service corporation assessment for each year of the five years immediately preceding;

b. School population and school enrollment in the town seeking to become a city and in the remaining portion of the county, as shown~~, respectively, by the triennial census of school population and~~ by the records in the office of the division superintendent of schools; and the cost of education per pupil in average daily membership, as shown by the most recent report of the Superintendent of Public Instruction; and

c. Population and the population density of the town seeking to become a city and of the remaining portion of the county;

4. The method of taking any population census requested by the petitioner;

5. Limitation on the number of expert witnesses; each expert witness who will testify shall file a statement of his qualifications; and

6. Such other matters as may aid in the disposition of the case.

The court, or the judge, as the case may be, shall make an appropriate order which will control the subsequent conduct of the case unless modified before or during the trial or hearing to prevent manifest injustice.

§ 15.2-3906. Pretrial conference; matters considered.

The special court shall, prior to hearing any case under this chapter, direct the attorneys for the parties to appear before it, or in its discretion before a single judge, for a conference to consider:

1. Simplification of the issues;

2. Amendment of pleadings and filing of additional pleadings;

3. Stipulations as to facts, documents, records, photographs, plans and like matters, which will dispense with formal proof thereof, including:

a. Assessed values, if appropriate, and the ratio of assessed values to true values, as determined by the State Department of Taxation, in the county seeking to become a city, including real property, personal property, machinery and tools, merchants' capital and public service corporation assessment for each year of the five years immediately preceding;

b. School population and school enrollment in the county, as shown~~, respectively, by the triennial census of school population and~~ by the records in the office of the division superintendent of schools; and the cost of education per pupil in average daily membership as shown by the last preceding report of the Superintendent of Public Instruction;

c. Population of the county and its population density;

4. The method of taking any population census requested by the petitioner;

5. Limitation on the number of expert witnesses; each expert witness who will testify shall file a statement of his qualifications;

6. Such other matters as may aid in the disposition of the case.

The court, or the judge, as the case may be, shall make an appropriate order which will control the subsequent conduct of the case unless modified before or during the trial or hearing to prevent manifest injustice.

§ 15.2-4105. Pretrial conference; matters considered.

The special court shall, prior to hearing any case under this chapter, direct the attorneys for the parties to appear before it or, in its discretion, before a single judge, for a conference to consider:

1. Simplification of the issues;

2. Amendment of pleadings and filing of additional pleadings;

3. Stipulations as to facts, documents, records, photographs, plans and like matters, which will dispense with formal proof thereof, including:

a. Assessed values and the ratio of assessed values to true values, as determined by the State Department of Taxation, in the city seeking to become a town and in the county including real property, personal property, machinery and tools, merchants' capital and public service corporation assessment for

each year of the five years immediately preceding;

b. School population and school enrollment in the city seeking to become a town and in the county, as shown~~, respectively, by the triennial census of school population and~~ by the records in the office of the division superintendent of schools; and cost of education per pupil in average daily membership, as shown by the last preceding report of the Superintendent of Public Instruction;

c. Population and population density of the city seeking to become a town and of the county;

4. Long-term and short-term indebtedness of both the city and the county;

5. Limitation or expansion of pretrial discovery procedures;

6. Limitation of the number of expert witnesses; each expert witness who will testify shall file a statement of his qualifications;

7. Such other matters as may aid in the disposition of the case.

The court, or the judge, as the case may be, shall make an appropriate order which will control the subsequent conduct of the case unless modified for good cause before or during the trial or hearing.

§ 22.1-261. Attendance officer to make list of children not enrolled; duties of attendance officer.

The attendance officer or the division superintendent shall check the reports submitted pursuant to subsection A of § 22.1-260 ~~with the last school census and~~ with reports from the State Registrar of Vital Records and Health Statistics. From these reports and from any other reliable source the attendance officer or the division superintendent shall, within five days after receiving all reports submitted pursuant to subsection A of § 22.1-260, make a list of the names of children who are not enrolled in any school and who are not exempt from school attendance. It shall be the duty of the attendance officer, on behalf of the local school board, to investigate all cases of nonenrollment and, when no valid reason is found therefor, to notify the parent, guardian or other person having control of the child to require the attendance of such child at the school within three days from the date of such notice.

§ 37.2-713. Residence of consumers in state facilities and school-age children in state facilities generally.

For purposes of eligibility for and receipt of social services and public assistance, each consumer in a state facility shall be deemed a resident of the county or city in which he resided at the time of his admission to the state facility, and not of the county or city in which the state facility is located. ~~Each person between the ages of two and 21 in the population of any state facility whom the Department determines could benefit from a program of education or training shall be included in the census taken as provided in § 22.1-281.~~ The Department shall be entitled to receive annually from the Board of Education and the school division where the person ~~is included in the census~~ *resided at the time of his admission* a sum equal to the required local expenditure per pupil, as set forth in the appropriation act, and an additional payment for special education, as applicable, for support of the person's education. This amount shall be paid by the Board of Education, and the Board shall then deduct that payment from the amount payable by the Board of Education from the basic school aid fund to the school division.

§ 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~~ *average daily membership* of such town bears to the ~~school age population~~ *average daily membership* 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~~ *calculation of the average daily membership*, such increase shall, for the purposes of this section, be added to the ~~school age population~~ *average daily membership* of such town as shown by the last ~~such census~~ *calculation of the average daily membership* and a proper reduction made in the ~~school age population~~ *average daily membership* 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~~ *average daily membership* of each such town bears to the ~~school age population~~ *average daily membership* 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~~ *average daily membership* 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~~ *calculation of average daily membership*, such increase shall, for the purposes of this section, be added to the ~~school age population~~ *average daily membership* of such town as shown by the last ~~such census~~ *calculation of the average daily membership* and a proper reduction made in the ~~school age population~~ *average daily membership* 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.

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

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

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

Transportation Trust Fund, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund as provided in this section; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund as provided in this section; and an aggregate of 14.5 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 Virginia Port Authority in order to foster and stimulate the flow of maritime commerce through the ports of Virginia, including but not limited to the ports of Richmond, Hopewell and Alexandria.

3. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be part of the Transportation Trust Fund and which shall be known as the Commonwealth Airport Fund. The Commonwealth Airport Fund shall be established on the books of the Comptroller and any 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 the funds shall be credited to the Fund. The funds so allocated shall be allocated by the Commonwealth Transportation Board to the Virginia Aviation Board. The funds shall be allocated by the Virginia Aviation Board to any Virginia airport which is owned by the Commonwealth, a governmental subdivision thereof, or a private entity to which the public has access for the purposes enumerated in § 5.1-2.16, or is owned or leased by the Metropolitan Washington Airports Authority (MWAA), as follows:

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

Of the remaining amount:

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

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

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

4. 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 Mass Transit Fund.

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

b. The amounts allocated pursuant to this section shall be used to support the public transportation administrative costs and the costs borne by the locality for the purchase of fuels, lubricants, tires and maintenance parts and supplies for public transportation at a state share of 80 percent in 2002 and 95 percent in 2003 and succeeding years. These amounts may be used to support up to 95 percent of the local or nonfederal share of capital project costs for public transportation and ridesharing equipment, facilities, and associated costs. Capital costs may include debt service payments on local or agency transit bonds. The term "borne by the locality" means the local share eligible for state assistance

consisting of costs in excess of the sum of fares and other operating revenues plus federal assistance received by the locality.

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

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

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

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

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

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

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

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

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

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

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

f. The remaining 25 percent shall be distributed for capital purposes on the basis of 95 percent of the nonfederal share for federal projects and 95 percent of the total costs for nonfederal projects. In the event that total capital funds available under this subdivision are insufficient to fund the complete list of eligible projects, the funds shall be distributed to each transit property in the same proportion that such capital expenditure bears to the statewide total of capital projects.

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 20 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 95 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 20 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 provided. No special school population census, other than a statewide census, shall be used as the basis of apportionment and distribution except that in any calendar year in which a statewide census is not reported, the Department of Education shall adjust such school population figures by the same percent of annual change in total population estimated for each locality by The Center for Public Service~~ *of average daily membership as provided in the general appropriation act*. The revenue so apportionable and distributable is hereby appropriated to the several counties and cities for maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the operation of the public schools, which shall be considered as funds raised from local resources. In any county, however, wherein is situated any incorporated town constituting a school division, the county treasurer shall pay into the town treasury for maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the operation of the public schools, the proper proportionate amount received by him in the ratio that the ~~school population~~ *average daily membership* of such town bears to the ~~school population~~ *average daily membership* of the entire county. If the ~~school population~~ *average daily membership* of any city or of any town constituting a school division is increased by the annexation of territory since the last ~~preceding school population census~~ *calculation of average daily membership*, such increase shall, for the purposes of this section, be added to the ~~school population~~ *average daily membership* of such city or town as shown by the last such ~~census~~ *calculation of average daily membership* and a proper reduction made in the ~~school population~~ *average daily membership* of the county or counties from which the annexed territory was acquired.

E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a two percent sales and use tax, up to an annual amount of $13 million, collected from the sales of hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment, wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used, in part, to defray the cost of law enforcement. Not later than 30 days after the close of each quarter, the Comptroller shall transfer to the Game Protection Fund the appropriate amount of collections to be dedicated to such Fund. At any time that the balance in the Capital Improvement Fund, established under § 29.1-101.1, is equal to or in excess of $35 million, any portion of sales and use tax revenues that would have been transferred to the Game Protection Fund, established under § 29.1-101, in excess of the net operating expenses of the Board, after deduction of other amounts which accrue to the Board and are set aside for the Game Protection Fund, shall remain in the general fund until such time as the balance in the Capital Improvement Fund is less than $35 million.

F. 1. Of the net revenue generated from the one-half percent increase in the rate of the state sales and use tax effective August 1, 2004, pursuant to enactments of the 2004 Special Session I of the General Assembly, the Comptroller shall transfer from the general fund of the state treasury to the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund established under § 58.1-638.1 an amount equivalent to one-half of the net revenue generated from such one-half percent increase as provided in this subdivision. The transfers to the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund under this subdivision shall be for one-half of the net revenue generated (and collected in the succeeding month) from such one-half percent increase for the month of August 2004 and for each month thereafter.

2. For the purposes of the Comptroller making the required transfers under subdivision 1, the Tax

Commissioner shall make a written certification to the Comptroller no later than the twenty-fifth of each month certifying the sales and use tax revenues generated in the preceding month. Within three calendar days of receiving such certification, the Comptroller shall make the required transfers to the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund.

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

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

2. That Article 4 (§§ 22.1-281 through 22.1-286) of Chapter 14 of Title 22.1 of the Code of Virginia is repealed.