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SENATE BILL NO. 284

Offered January 11, 2012

Prefiled January 10, 2012

A *BILL to amend and reenact §§ 2.2-2201 through 2.2-2204, 2.2-2213, 2.2-2215, 33.1-23.03:2, 33.1-23.7, 58.1-423, 58.1-638, 58.1-1741, and 58.1-2425 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 2.2-2203.1 through 2.2-2203.4, relating to the oversight of and funding for commercial space flight in the Commonwealth.*

Patrons—Herring and McWaters

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2201 through 2.2-2204, 2.2-2213, 2.2-2215, 33.1-23.03:2, 33.1-23.7, 58.1-423, 58.1-638, 58.1-1741, and 58.1-2425 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 2.2-2203.1 through 2.2-2203.4 as follows:

§ 2.2-2201. Short title; definitions.

A. This article shall be known and may be cited as the "Virginia Commercial Space Flight Authority Act."

B. As used in this article, unless the context requires a different meaning:

"Authority" means the Virginia Commercial Space Flight Authority.

"Board" means the board of directors of the Authority.

"Project" means the construction, improvement, furnishing, maintenance, acquisition or operation of any facility or the provision for or funding of any activity that will further the purposes described in § 2.2-2202.

§ 2.2-2202. Declaration of public purpose; Authority created.

A. The General Assembly has determined that there exists in the Commonwealth a need to (i) disseminate knowledge pertaining to scientific and technological research and development among public and private entities; ~~including but not limited to knowledge in the area of commercial space flight;~~ (ii) ~~promote Science, Technology, Engineering, and Math (STEM) education;~~ and (iii) ~~promote industrial and economic development through the development and promotion of the commercial space flight industry.~~ In order to facilitate and coordinate scientific and technological research and development and to promote the industrial and economic development of the Commonwealth, which purposes are declared to be public purposes the advancement of these needs, there is hereby created the Virginia Commercial Space Flight Authority, with the powers and duties set forth in this article, as a public body corporate and as a political subdivision of the Commonwealth. The Authority is constituted as a public instrumentality exercising public functions, and the exercise by the Authority of the powers and duties conferred by this article shall be deemed and held to be the performance of an essential government function of the Commonwealth and a public purpose.

B. To achieve the objectives of subsection A, there is created a political subdivision of the Commonwealth to be known as the "Virginia Commercial Space Flight Authority" (the "Authority"). The Authority's exercise of powers conferred by this article shall be deemed to be the performance of an essential governmental function and matters of public necessity for which public moneys may be spent and private property acquired.

§ 2.2-2203. Board of directors; members and officers; Executive Director.

The Authority shall be governed by a board of directors consisting of ~~13~~ nine members, ~~four~~ two of whom shall be the President of the Center for Innovative Technology, the President of Old Dominion University, the Secretary of Commerce and Trade, and the Secretary of Technology, who shall serve as members of the Board for terms coincident with their terms of office ~~Secretary of Transportation and the Director of the Virginia Department of Aviation or their respective designees.~~ The remaining ~~nine~~ seven members shall be appointed by the Governor as follows: ~~four~~ members representing the commercial space flight industry; ~~two~~ members representing the telecommunications industry; ~~one~~ member representing the County of Accomack; ~~one~~ member representing the County of Northampton; and ~~one at-large member~~ one member representing the business community; ~~one~~ member representing the financial industry; ~~one~~ member representing the marketing industry; ~~one~~ member representing the legal industry; ~~one~~ member representing the research and development industry; and ~~two at-large members.~~ Of the members appointed by the Governor, ~~two~~ one shall be appointed for terms a term of one year, ~~three~~ two for terms of two years, and ~~three~~ two for terms of three years, and ~~two~~ for terms of

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59 *four years from the effective date of their appointment. Thereafter, the members of the Board shall be*
60 *appointed for terms of three four years. All members of the Board appointed by the Governor shall be*
61 *confirmed by each house of the General Assembly. Vacancies in the membership of the Board shall be*
62 *filled by appointment for the unexpired portion of the term. Members of the Board shall be subject to*
63 *removal from office in like manner as are state, county, town and district officers under the provisions*
64 *of §§ 24.2-230 through 24.2-238. Immediately after appointment, the members of the Board shall enter*
65 *upon the performance of their duties. All members shall serve until their successors are appointed. Any*
66 *appointment to fill a vacancy shall be for the unexpired term. No member appointed by the Governor*
67 *shall be eligible to serve more than two consecutive terms; however, a member appointed to fill a*
68 *vacancy may serve two additional consecutive terms. Members shall serve at the pleasure of the*
69 *Governor and shall be confirmed by the General Assembly. Members of the Board shall receive*
70 *reimbursement for their expenses and shall be compensated at the rate provided in § 2.2-2813 for each*
71 *day spent on Board business.*

72 *The Board shall annually elect one of its members as chairman and another as vice-chairman; a*
73 *secretary, and a treasurer who need not be a member of the Board. The Board may also elect other*
74 *subordinate officers, who need not be members of the Board, as it deems proper and may also elect*
75 *from its membership, or appoint from the Authority's staff, a secretary and a treasurer and prescribe*
76 *their powers and duties. The chairman or, in his absence, the vice-chairman shall preside at all meetings*
77 *of the Board. In the absence of both the chairman and vice-chairman, the Board shall appoint a*
78 *chairman pro tempore, who shall preside at such meetings. Seven Five members shall constitute a*
79 *quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair*
80 *the right of a quorum to exercise all the rights and perform all the duties of the Authority.*

81 *The members of the Board shall be entitled to reimbursement for their reasonable travel, meal and*
82 *lodging expenses incurred in attending the meetings of the Board or while otherwise engaged in the*
83 *discharge of their duties. Such expenses shall be paid out of the treasury of the Authority upon vouchers*
84 *signed by the chairman of the Board or by such other person designated by the Board for this purpose.*

85 *The Board may employ an Executive Director of the Authority, who shall serve at the pleasure of*
86 *the Board, to direct the day-to-day operations and activities of the Authority and carry out the powers*
87 *and duties conferred upon him by the Board, including powers and duties involving the exercise of*
88 *discretion. The Executive Director shall also exercise and perform such other powers and duties as may*
89 *be lawfully delegated to him and such powers and duties as may be conferred or imposed upon him by*
90 *law. The Executive Director's compensation from the Commonwealth shall be fixed by the Board in*
91 *accordance with law. Such compensation shall be established at a level that will enable the Authority to*
92 *attract and retain a capable Executive Director. The Executive Director and employees of the Authority*
93 *shall be compensated in the manner provided by the Board and shall not be subject to the provisions of*
94 *the Virginia Personnel Act (§ 2.2-2900 et seq.) of this title shall employ or retain such other agents or*
95 *employees subordinate to the Executive Director as may be necessary to carry out the powers and duties*
96 *of the Authority.*

97 *§ 2.2-2203.1. Advisory Committee.*

98 *The Board shall form a nonvoting advisory committee to provide assistance and support to the*
99 *Authority on all matters, with the exception of the annual budget and personnel issues. The Advisory*
100 *Committee shall consist of six members as follows: two members representing the commercial aerospace*
101 *industry; two members representing the higher education community; the county administrator from the*
102 *County of Accomack; and the county executive from the County of Northampton. Advisory Committee*
103 *members shall be nominated by members of the Board and approved by the Board. Each member of the*
104 *Advisory Committee shall serve a term of four years, except for the county administrator from the*
105 *County of Accomack (or his designee) and the county executive from the County of Northampton (or his*
106 *designee), who shall be appointed for a term coincident with his term as county administrator or county*
107 *executive, respectively.*

108 *§ 2.2-2203.2. Planning.*

109 *The Board shall initiate and further plan for the development of commercial space flight in the*
110 *Commonwealth and, to this end, shall keep informed as to the present requirements and likely future*
111 *needs of any and all space flight facilities located within the Commonwealth or operated by the*
112 *Authority. The Board shall submit a strategic plan to the Governor and the General Assembly no later*
113 *than December 1, 2012, and such plan shall be updated every five years thereafter.*

114 *§ 2.2-2203.3. Employees; employment; personnel rules.*

115 *Employees of the Authority shall be employed on such terms and conditions as established by the*
116 *Board. The Board shall develop and adopt personnel rules, policies, and procedures to give its*
117 *employees grievance rights, ensure that employment decisions shall be based upon the merit and fitness*
118 *of applicants, and prohibit discrimination because of race, religion, color, sex, or national origin.*

119 *§ 2.2-2203.4. Trust for postemployment benefits authorized; administration.*

120 *A. The Authority is hereby authorized to establish and maintain a trust or equivalent arrangement*

for the purpose of accumulating and investing assets to fund postemployment benefits other than pensions, as defined herein. Such trust or equivalent arrangement shall be irrevocable. The assets of such trust or similar arrangement (i) shall be dedicated to providing benefits to retirees and their beneficiaries in accordance with the terms of the plan or programs providing postemployment benefits other than pensions and (ii) shall be exempt from taxation and execution, attachment, garnishment, or any other process against the Authority or a retiree or beneficiary. The funds of the trust or similar arrangement shall be deemed separate and independent trust funds, shall be segregated from all other funds of the Authority, and shall be invested and administered solely in the interests of the active or former employees (and their dependents or beneficiaries) entitled to postemployment benefits other than pensions.

B. The Authority may make appropriations to any such trust or equivalent arrangement, and the Authority may require active and former employees covered by a postemployment benefit program to contribute to the trust or equivalent arrangement through payments or deductions from their wages, salaries, or pensions.

C. Nothing in this section shall be construed to inhibit the Authority's right to revise or discontinue its plans or programs providing such postemployment benefits other than pensions for its active and former officers and employees as it may deem necessary. If all plans or programs providing such postemployment benefits other than pensions for which the trust or equivalent arrangement is established are repealed or terminated by the Authority, then there shall be no continuing responsibility of the Authority to continue to make appropriations to such trust or equivalent arrangement, and the assets of such trust or equivalent arrangement shall be used to provide any benefits continuing to be due to active or former employees (and their dependents or beneficiaries) under such plans or programs. If there are no active or former employees (or dependents or beneficiaries) due a benefit under any plan or program providing such postemployment benefits other than pensions for which the trust or equivalent arrangement was established, then any remaining assets may revert to the Authority.

D. Postemployment benefits other than pensions shall be defined by the Authority pursuant to applicable accounting standards and law. Such benefits may include, but are not limited to, medical, prescription drug, dental, vision, hearing, life, or accident insurance (not provided through a pension plan), long-term care benefits, and long-term disability benefits (not covered under a pension plan) provided to individuals who have terminated their service and to the dependents of such individuals, and may be provided by purchasing insurance, by a program of self-insurance, or by a combination of both. However, postemployment benefits other than pensions shall not include defined benefit pension plans for retirees and eligible dependents of retirees, termination benefits, or other pension benefits. Such postemployment benefits other than pensions may be provided to the officers and employees or to their dependents, estates, or designated beneficiaries. Any benefits arising from any postemployment benefits other than pension programs shall be clearly defined and strictly construed.

E. Notwithstanding any other provision of law, the moneys and other property comprising the trust or equivalent arrangement established hereunder shall be invested, reinvested, and managed by the Authority or the trust company or bank having powers of a trust company within or without the Commonwealth that is selected by the Board to act as a trustee for the trust or equivalent arrangement with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with the same aims. Such investments shall be diversified so as to minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so. Such investments shall not be limited by Chapter 45 (§ 2.2-4500 et seq.).

§ 2.2-2204. Powers of the Authority.

The Authority is granted all powers necessary or convenient for the carrying out of its statutory purposes, including, but not limited to, the power to:

1. Sue and be sued, implead and be impleaded, complain and defend in all courts;
2. Adopt, use, and alter at will a common seal;
3. Acquire any project and property, real, personal or mixed, tangible or intangible, or any interest therein, by purchase, gift or devise and to sell, lease (whether as lessor or lessee), transfer, convey or dispose of any project or property, real, personal or mixed, tangible or intangible or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board;
4. Plan, develop, undertake, carry out, construct, equip, improve, rehabilitate, repair, furnish, maintain and operate projects;
5. Adopt bylaws for the management and regulation of its affairs an annual budget for the Authority's capital improvements and operations;
6. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the power of the Authority shall be exercised and its duties

182 performed. Such bylaws, rules, and regulations may provide for such committees and their functions as
183 the Authority may deem necessary and expedient. Such bylaws, rules, and regulations shall be exempt
184 from the Administrative Process Act (§ 2.2-4000 et seq.);

185 67. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of projects of, the
186 sale of products of, or services rendered by the Authority at rates to be determined by it for the purpose
187 of providing for the payment of the expenses of the Authority; the planning, development, construction,
188 improvement, rehabilitation, repair, furnishing, maintenance, and operation of its projects and properties;
189 the payment of the costs accomplishing its purposes set forth in § 2.2-2202; the payment of the principal
190 of and interest on its obligations; and the creation of reserves for such purposes, for other purposes of
191 the Authority and to pay the cost of maintaining, repairing and operating any project and fulfilling the
192 terms and provisions of any agreements made with the purchasers or holders of any such obligations
193 and any other purposes as set forth in this article;

194 78. Borrow money, make and issue bonds including bonds as the Authority may determine to issue
195 for the purpose of accomplishing the purposes set forth in § 2.2-2202 or for refunding bonds previously
196 issued by the Authority, whether such outstanding bonds have matured or are then subject to
197 redemption, or any combination of such purposes; secure the payment of all bonds, or any part thereof,
198 by pledge, assignment or deed of trust of all or any of its revenues, rentals, and receipts or of any
199 project or property, real, personal or mixed, tangible or intangible, or any rights and interest therein;
200 make such agreements with the purchasers or holders of such bonds or with others in connection with
201 any such bonds, whether issued or to be issued, as the Authority shall deem advisable; and in general to
202 provide for the security for said bonds and the rights of holders thereof;

203 89. Make and enter into all contracts and agreements necessary or incidental to the performance of
204 its duties, the furtherance of its purposes, and the execution of its powers under this article, including
205 interstate compacts, *which have been authorized by the General Assembly and where necessary*
206 *consented to by the United States Congress*, and agreements with any person or federal agency;

207 910. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial
208 experts, investment bankers, superintendents, managers and such other employees and agents as may be
209 necessary, and to fix their compensation to be payable from funds made available to the Authority;

210 1011. Receive and accept from any federal or private agency, foundation, corporation, association or
211 person grants, donations of money, real or personal property for the benefit of the Authority, and to
212 receive and accept from the Commonwealth or any state, and any municipality, county or other political
213 subdivision thereof and from any other source, aid or contributions of either money, property, or other
214 things of value, to be held, used and applied for the purposes for which such grants and contributions
215 may be made;

216 1112. Render advice and assistance, and to provide services, to institutions of higher education
217 ~~including, but not limited to, Old Dominion University,~~ and to other persons providing services or
218 facilities for scientific and technological research or graduate education, provided that credit toward a
219 degree, certificate or diploma shall be granted only if such education is provided in conjunction with an
220 institution of higher education authorized to operate in Virginia;

221 1213. Develop, undertake and provide programs, alone or in conjunction with any person or federal
222 agency, for scientific and technological research, technology management, continuing education and
223 in-service training; however, credit towards a degree, certificate or diploma shall be granted only if such
224 education is provided in conjunction with an institution of higher education authorized to operate in
225 Virginia; foster the utilization of scientific and technological research, information discoveries and data
226 and obtain patents, copyrights and trademarks thereon; coordinate the scientific and technological
227 research efforts of public institutions and private industry and collect and maintain data on the
228 development and utilization of scientific and technological research capabilities;

229 1314. Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as
230 security for all or any of the obligations of the Authority; and

231 14. ~~Appoint an industry advisory board to advise the Authority on issues related to the performance~~
232 ~~of its duties, the furtherance of its purposes and the execution of its powers under this article. The~~
233 ~~Authority shall have full discretion in determining the number and qualifications of members it appoints~~
234 ~~to the industry advisory board, and whether such members shall be compensated from the funds made~~
235 ~~available to the Authority; and~~

236 15. Do all acts and things necessary or convenient to carry out the powers granted to it by law.

237 § 2.2-2213. Forms of accounts and records; audit; annual report.

238 The accounts and records of the Authority showing the receipt and disbursement of funds from
239 whatever source derived, shall be in a form prescribed by the Auditor of Public Accounts generally
240 accepted accounting standards. The Auditor of Public Accounts or his legally authorized representatives,
241 Authority shall annually retain an independent certified public accountant to examine the accounts and
242 books of the Authority. Such accounts shall correspond as nearly as possible to the accounts and records
243 for such matters maintained by corporate enterprises.

The Authority shall submit an annual report to the Governor and General Assembly on or before November 1 of each year. Such report shall contain the audited annual financial statements of the Authority for the year ending the preceding June 30.

§ 2.2-2215. Powers not restrictive; exemptions from Public Procurement Act and the Virginia Personnel Act.

The provisions of the Virginia Personnel Act (~~§ 2.2-2900 et seq.~~) and the Virginia Public Procurement Act (~~§ 2.2-4300 et seq.~~) of this title shall not apply to the Authority in the exercise of any power conferred under this article.

The Authority shall have the power to perform any act or carry out any function not inconsistent with state law, whether included in the provisions of this article, which may be, or may tend to be, useful in carrying out the provisions of this article. The provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any of its powers provided that the Board adopt procedures to ensure fairness and competitiveness in the procurement of goods and services and the administration of its capital outlay plan. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) shall not apply to the Authority in the exercise of any of its powers. The Authority shall be exempt from the provisions of §§ 2.2-1124, 2.2-1131.1, 2.2-1136, 2.2-1149, 2.2-1153, 2.2-1154, and 2.2-1156. These exemptions shall remain in effect so long as the Authority adopts, and the Board approves, regulations consistent with the requirements of the above referenced sections and such regulations remain in effect.

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

Of the funds becoming part of the Transportation Trust Fund pursuant to subdivision 3 of § 33.1-23.03:1, \$15 million each fiscal year shall be set aside as the Commonwealth Space Flight Fund pursuant to subdivision A 1 of § 58.1-638. After such allocation is made, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit Fund. The remaining 78.9 percent of the funds deposited into or held in the Transportation Trust Fund in fiscal year 1998-1999, and 78.7 percent of the funds deposited into or held in the Transportation Trust Fund in fiscal year 1999-2000 and thereafter, pursuant to subdivision 3 of § 33.1-23.03:1, together with funds deposited pursuant to subdivisions 1 and 6 of § 33.1-23.03:1, shall be expended for capital improvements including construction, reconstruction, maintenance, and improvements of highways according to the provisions of § 33.1-23.1 B or to secure bonds issued for such purposes, as provided by the Board and the General Assembly.

§ 33.1-23.7. Definitions.

As used in this article, whether in capitalized or uncapitalized form, each of the following terms has the meaning given it in this section, unless the context requires a different meaning to be consistent with the manifest intention of the General Assembly:

"Bank" means the Virginia Transportation Infrastructure Bank created in § 33.1-23.8.

"Board" means the Commonwealth Transportation Board.

"Cost," as applied to any project financed under the provisions of this article, means the total of all costs including, but not limited to, the costs of planning, design, right-of-way acquisition, engineering, and construction incurred by an Eligible Borrower or other Project Sponsor as reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project. The term also includes capitalized interest, reasonably required reserve funds, and financing, credit enhancement, and issuance costs.

"Credit enhancements" means surety bonds, insurance policies, letters of credit, guarantees, and other forms of collateral or security.

"Creditworthiness" means attributes such as revenue stability, debt service coverage, reserves, and other factors commonly considered in assessing the strength of the security for indebtedness.

"Eligible Borrower" means any (i) Private Entity; (ii) Governmental Entity; (iii) instrumentality, corporation, or entity established by any of the foregoing pursuant to § 33.1-23.11; or (iv) combination of two or more of the foregoing.

"Finance" and any variation of the term, when used in connection with a cost or a project, includes both the initial financing and any refinancing of the cost or project and any variation of such terms.

"Governmental Entity" means any (i) Locality; (ii) local, regional, state, or federal entity; transportation authority, planning district, commission, or political subdivision created by the General Assembly or pursuant to the Constitution and laws of the Commonwealth; or public transportation entity owned, operated, or controlled by one or more local entities; (iii) entity established by interstate compact; (iv) instrumentality, corporation, or entity established by any of the foregoing pursuant to § 33.1-23.11; or (v) any combination of two or more of the foregoing.

305 "Grant" means a transfer of moneys or property that does not impose any obligation or condition on
306 the grantee to repay any amount to the transferor other than in connection with assuring that the
307 transferred moneys or property will be spent or used in accordance with the governmental purpose of
308 the transfer. Such term includes, without limitation, direct cash payments made to pay or reimburse all
309 or a portion of interest payments made by a grantee on a debt obligation. As provided in §§ 33.1-23.8
310 and 33.1-23.9, only Governmental Entities may receive grants of moneys or property held in or for the
311 credit of the Bank.

312 "Loan" means an obligation subject to repayment that is provided by the Bank to an Eligible
313 Borrower to finance all or a part of the eligible cost of a project incurred by the Eligible Borrower or
314 other Project Sponsor. A loan may be disbursed (i) in anticipation of reimbursement (including an
315 advance or draw under a credit enhancement instrument), (ii) as direct payment of eligible costs, or (iii)
316 to redeem or defease a prior obligation incurred by the Eligible Borrower or other Project Sponsor to
317 finance the eligible costs of a project.

318 "Locality" means any county, city, or town in the Commonwealth.

319 "Management agreement" means the memorandum of understanding or interagency agreement among
320 the Manager, the Secretary of Finance and the Board as authorized under subsection B of § 33.1-23.8.

321 "Manager" means the Virginia Resources Authority serving as the manager, administrator and trustee
322 of funds disbursed from the Bank in accordance with the provisions of this article and the management
323 agreement.

324 "Other financial assistance" means, but is not limited to, grants, capital or debt reserves for bonds or
325 debt instrument financing, provision of letters of credit and other forms of credit enhancement, and other
326 lawful forms of financing and methods of leveraging funds that are approved by the Manager.

327 "Private Entity" means any private or nongovernmental entity that has executed an interim or
328 comprehensive agreement to develop and construct a transportation infrastructure project pursuant to the
329 Public-Private Transportation Act of 1995 (§ 56-556 et seq.).

330 "Project" means (i) the construction, reconstruction, rehabilitation, or replacement of any interstate,
331 state highway, toll road, tunnel, local road, or bridge; or (ii) the construction, reconstruction,
332 rehabilitation, or replacement, of any (a) mass transit, (b) commuter, passenger, or freight rail, (c) port,
333 or (d) airport, or (e) commercial space flight facility; or the acquisition of any rolling stock, vehicle, or
334 equipment to be used therewith.

335 "Project obligation" means any bond, note, debenture, interim certificate, grant or revenue
336 anticipation note, lease or lease-purchase or installment sales agreement, or credit enhancements issued,
337 incurred, or entered into by an Eligible Borrower to evidence a loan, or any financing agreements,
338 reimbursement agreements, guarantees, or other evidences of an obligation of an Eligible Borrower or
339 other Project Sponsor to pay or guarantee a loan.

340 "Project Sponsor" means any Private Entity or Governmental Entity that is involved in the planning,
341 design, right-of-way acquisition, engineering, construction, maintenance or financing of a project.

342 "Reliable repayment source" means any means by which an Eligible Borrower or other Project
343 Sponsor generates funds that are dedicated to the purpose of retiring a project obligation.

344 "Substantial project completion" means the opening of a project for vehicular or passenger traffic or
345 the handling of cargo and freight.

346 § 58.1-423. Income tax paid by commercial spaceflight entities.

347 A. Beginning July 1, 2011, and for fiscal years 2012, 2013, 2014, and 2015, the portion of the
348 Virginia income tax net revenue generated by qualified corporations or limited liability companies that is
349 attributable to the sale of commercial human spaceflights or commercial spaceflight training (regardless
350 of point of sale, or where space flight takes place), or is incidental to the sale of commercial human
351 spaceflights, shall be transferred to the Virginia Commercial Space Flight Authority, established pursuant
352 to Article 2 (§ 2.2-2201 et seq.) of Chapter 22 of Title 2.2. The Tax Commissioner shall make a written
353 certification to the Comptroller within 15 days of the close of each calendar quarter providing an
354 estimate of the portion of the Virginia income tax net revenue generated during the calendar quarter by
355 the qualified corporations or limited liability companies that is attributable to the sale of commercial
356 human spaceflights or commercial spaceflight training or is incidental to the sale of commercial human
357 spaceflights. Not later than 30 days after the close of each quarter, the Comptroller shall transfer to the
358 Virginia Commercial Space Flight Authority an amount from the general fund that is equal to the
359 estimate provided by the Tax Commissioner.

360 B. For purposes of this section, a qualified corporation or limited liability company is a corporation
361 or limited liability company that engages in commercial human spaceflights or commercial spaceflight
362 training.

363 § 58.1-638. Disposition of state sales and use tax revenue; localities' share; Game Protection Fund.

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

366 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, \$15 million each fiscal year shall be set aside as the Commonwealth Space Flight Fund. After such allocation is made, 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 a 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.

3a. 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 Space Flight Fund. The Commonwealth Space Flight 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.

a. The amounts allocated pursuant to this section shall be allocated by the Commonwealth Transportation Board to the Board of Directors of the Virginia Commercial Space Flight Authority to be used to support the capital needs, maintenance, and operating costs of any and all facilities owned and operated by the Virginia Commercial Space Flight Authority.

b. Commonwealth Space Flight Fund revenue shall be allocated by the Board of Directors to the Virginia Commercial Space Flight Authority in order to foster and stimulate the growth of the

428 *commercial space flight industry in Virginia.*

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

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

437 b. The amounts allocated pursuant to this section shall be used to support the public transportation
438 administrative costs and the costs borne by the locality for the purchase of fuels, lubricants, tires and
439 maintenance parts and supplies for public transportation at a state share of 80 percent in 2002 and 95
440 percent in 2003 and succeeding years. These amounts may be used to support up to 95 percent of the
441 local or nonfederal share of capital project costs for public transportation and ridesharing equipment,
442 facilities, and associated costs. Capital costs may include debt service payments on local or agency
443 transit bonds. The term "borne by the locality" means the local share eligible for state assistance
444 consisting of costs in excess of the sum of fares and other operating revenues plus federal assistance
445 received by the locality.

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

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

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

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

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

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

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

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

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

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

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

475 f. The remaining 25 percent shall be distributed for capital purposes on the basis of 95 percent of the
476 nonfederal share for federal projects and 95 percent of the total costs for nonfederal projects. In the
477 event that total capital funds available under this subdivision are insufficient to fund the complete list of
478 eligible projects, the funds shall be distributed to each transit property in the same proportion that such
479 capital expenditure bears to the statewide total of capital projects. Prior to the annual adoption of the
480 Six-Year Improvement Program, the Commonwealth Transportation Board may allocate up to 20 percent
481 of the funds in the Commonwealth Mass Transit Fund designated for capital purposes to transit
482 operating assistance if operating funds for the next fiscal year are estimated to be less than the current
483 fiscal year's allocation, to attempt to maintain transit operations at approximately the same level as the
484 previous fiscal year.

485 g. There is hereby created in the Department of the Treasury a special nonreverting fund known as
486 the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the
487 Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be
488 established on the books of the Comptroller and consist of such moneys as are appropriated to it by the
489 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~~ *the* 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 of the latest yearly estimate of the population of cities and counties ages five to 19, provided by the Weldon Cooper Center for Public Service of the University of Virginia. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for persons who are domiciled in orphanages or charitable institutions or who are dependents living on any federal military or naval reservation or other federal property within the school division in which the institutions or federal military or naval reservation or other federal property is located. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for members of the military services who are under 20 years of age within the school division in which the parents or guardians of such persons legally reside. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for persons who are confined in state hospitals, state training schools or state training centers for the mentally retarded, mental institutions, or state or federal correctional institutions or who attend the Virginia School for the Deaf and the Blind within the school division in which the parents or guardians of such persons legally reside. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for persons who attend institutions of higher education within the school division in which the student's parents or guardians legally reside. To such estimate, the Department of Education shall add the population of students with disabilities, ages two through four and 20 through 21, as provided to the Department of Education by school divisions. 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 of such town bears to the

551 school population of the entire county. If the school population of any city or of any town constituting a
552 school division is increased by the annexation of territory since the last estimate of school population
553 provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this
554 section, be added to the school population of such city or town as shown by the last such estimate and a
555 proper reduction made in the school population of the county or counties from which the annexed
556 territory was acquired.

557 E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a
558 two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of
559 hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment,
560 wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the
561 most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of
562 Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated
563 Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used,
564 in part, to defray the cost of law enforcement. Not later than 30 days after the close of each quarter, the
565 Comptroller shall transfer to the Game Protection Fund the appropriate amount of collections to be
566 dedicated to such Fund. At any time that the balance in the Capital Improvement Fund, established
567 under § 29.1-101.01, is equal to or in excess of \$35 million, any portion of sales and use tax revenues
568 that would have been transferred to the Game Protection Fund, established under § 29.1-101, in excess
569 of the net operating expenses of the Board, after deduction of other amounts which accrue to the Board
570 and are set aside for the Game Protection Fund, shall remain in the general fund until such time as the
571 balance in the Capital Improvement Fund is less than \$35 million.

572 F. 1. Of the net revenue generated from the one-half percent increase in the rate of the state sales
573 and use tax effective August 1, 2004, pursuant to enactments of the 2004 Special Session I of the
574 General Assembly, the Comptroller shall transfer from the general fund of the state treasury to the
575 Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund established under
576 § 58.1-638.1 an amount equivalent to one-half of the net revenue generated from such one-half percent
577 increase as provided in this subdivision. The transfers to the Public Education Standards of
578 Quality/Local Real Estate Property Tax Relief Fund under this subdivision shall be for one-half of the
579 net revenue generated (and collected in the succeeding month) from such one-half percent increase for
580 the month of August 2004 and for each month thereafter.

581 2. For the purposes of the Comptroller making the required transfers under subdivision 1, the Tax
582 Commissioner shall make a written certification to the Comptroller no later than the twenty-fifth of each
583 month certifying the sales and use tax revenues generated in the preceding month. Within three calendar
584 days of receiving such certification, the Comptroller shall make the required transfers to the Public
585 Education Standards of Quality/Local Real Estate Property Tax Relief Fund.

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

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

591 § 58.1-1741. (Effective July 1, 2012) Disposition of revenues.

592 A. After the direct costs of administering this article are recovered by the Department of Taxation,
593 the remaining revenues collected hereunder by the Tax Commissioner shall be forthwith paid into the
594 state treasury. Except as otherwise provided in this section, these funds shall constitute special funds
595 within the Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the
596 year shall be available for use in subsequent years for the purposes set forth in this article, and any
597 interest income on such funds shall accrue to these funds. The revenue so derived, after refunds have
598 been deducted, is hereby allocated for the construction, reconstruction, and maintenance of highways and
599 the regulation of traffic thereon and for no other purpose. However, (i) all funds collected from the
600 additional tax imposed by subdivision A 2 of § 58.1-1736 on the rental of daily rental vehicles shall be
601 distributed quarterly to the county, city, or town wherein such vehicle was delivered to the rentee; (ii)
602 except as provided in clause (iii) of this sentence, an amount equivalent to the net additional revenues
603 from the motor vehicle rental tax generated by enactments of the 1986 Special Session of the Virginia
604 General Assembly which amended §§ 46.2-694, 46.2-697, and by §§ 58.1-1735, 58.1-1736 and this
605 section, shall be distributed to and paid into the Transportation Trust Fund, a special fund within the
606 Commonwealth Transportation Fund, and are hereby appropriated to the Commonwealth Transportation
607 Board for transportation needs; (iii) all moneys collected from the tax on the gross proceeds from the
608 rental in Virginia of any motor vehicle pursuant to subdivision A 1 of § 58.1-1736 at the tax rate in
609 effect on December 31, 1986, shall be paid by the Tax Commissioner into the state treasury and shall be
610 paid into the Rail Enhancement Fund established by § 33.1-221.1:1.1; and (iv) all additional revenues
611 resulting from the fee imposed under subdivision A 3 of § 58.1-1736 shall be used to pay the debt
612 service on the bonds issued by the Virginia Public Building Authority for the Statewide Agencies Radio

System (STARS) for the Department of State Police pursuant to the authority granted by the 2004 Session of the General Assembly.

B. As provided in subsection A of § 58.1-638, of Of the funds becoming part of the Transportation Trust Fund pursuant to clause (ii) 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 14.7 percent shall be set aside as the Commonwealth Mass Transit Fund.

§ 58.1-2425. (Effective July 1, 2012) Disposition of revenues.

A. 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; and (ii) effective January 1, 1987, an amount equivalent to the net additional revenues from the sales and use tax on motor vehicles 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.

B. As provided in subsection A of § 58.1-638, of Of the funds becoming part of the Transportation Trust Fund pursuant to clause (ii) 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 all appointments to the Board of the Virginia Commercial Space Flight Authority shall expire on July 1, 2012. New appointments shall be made to the Board pursuant to the provisions of § 2.2-2203 of the Code of Virginia.

3. That the Virginia Commercial Space Flight Authority created under § 2.2-2202 of the Code of Virginia shall issue a written notice to its employees regarding the Authority's status. The date upon which such written notice is issued shall be referred to herein as the "option date." Each employee may, by written request made within the 180 days immediately following the option date, elect not to become employed by the Authority. Any employee of the Virginia Commercial Space Flight Authority who (i) elects not to become employed by the Authority and who is not reemployed by any other department, institution, board, commission, or agency of the Commonwealth; (ii) is not offered the opportunity to remain employed by the Authority; or (iii) is not offered a position with the Authority for which the employee is qualified or is offered a position that requires relocation or a reduction in salary, shall be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act (§ 2.2-3200 et seq.) of the Code of Virginia. Any employee who accepts employment with the Authority shall not be considered to be involuntarily separated from state employment and shall not be eligible for the severance benefits conferred by the Workforce Transition Act.

4. That any employee of the Virginia Commercial Space Flight Authority who is a member of any plan providing health insurance coverage pursuant to Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2 of the Code of Virginia shall continue to be a member of such health insurance plan under the same terms and conditions. Notwithstanding subsection A of § 2.2-2818 of the Code of Virginia, the costs of providing health insurance coverage to such employees who elect to continue to be members of the state employees' health insurance plan shall be paid by the Authority. Alternatively, an employee may elect to become a member of any health insurance plan established by the Authority. The Authority is authorized to (i) establish a health insurance plan for the benefit of its employees and (ii) enter into agreements with the Department of Human Resource Management providing for the coverage of its employees under the state employees' health insurance plan, provided that such agreements require the Authority to pay the costs of providing health insurance coverage under such plan.

5. That any retired employee of the Virginia Commercial Space Flight Authority shall be eligible to receive the health insurance credit set forth in § 51.1-1400 of the Code of Virginia, provided the retired employee meets the eligibility criteria set forth in that section.

6. That the Virginia Commercial Space Flight Authority is hereby authorized to establish one or

more retirement plans for the benefit of its employees (the "Authority retirement plan"). For purposes of such plans, the provisions of § 51.1-126.4 of the Code of Virginia shall apply, mutatis mutandis. Any Authority employee who is a member of the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 of the Code of Virginia (the "statutory optional retirement plan") at the time the Authority retirement plan becomes effective shall continue to be a member of the Virginia Retirement System or the statutory optional retirement plan under the same terms and conditions, unless such employee elects to become a member of the Authority retirement plan.

The following rules shall apply:

A. The Authority shall collect and pay all employee and employer contributions to the Virginia Retirement System or the statutory optional retirement plan for retirement and group life insurance in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 of the Code of Virginia for any employee who elects to remain a member of the Virginia Retirement System or a statutory optional retirement plan.

B. Employees who elect to become members of the Authority retirement plan shall be given full credit for their creditable service as defined in § 51.1-124.3 of the Code of Virginia, and vesting and benefit accrual under the Authority retirement plan. For any such employee, employment with the Authority shall be treated as employment with any nonparticipating employer for purposes of the Virginia Retirement System or any statutory optional retirement plan.

C. For employees who elect to become members of the Authority retirement plan, the Virginia Retirement System or the statutory optional retirement plan, as applicable, shall transfer to the Authority retirement plan assets equal to the actuarially determined present value of the accrued basic benefits for such employees as of the transfer date. For purposes hereof, "basic benefits" means the benefits accrued under the Virginia Retirement System or under the statutory optional retirement plan based on creditable service and average final compensation as defined in § 51.1-124.3 of the Code of Virginia. The actuarial present value shall be determined by using the same actuarial factors and assumptions used in determining the funding needs of the Virginia Retirement System or the statutory optional retirement plan so that the transfer of assets to the Authority retirement plan will have no effect on the funded status and financial stability of the Virginia Retirement System or the statutory optional retirement plan. The Authority shall reimburse the Virginia Retirement System for the cost of actuarial services necessary to determine the present value of the accrued basic benefit of employees who transfer to an Authority retirement plan.

D. The Authority may provide that employees of the Authority who are eligible to participate in any deferred compensation plan sponsored by the Authority shall be enrolled automatically in such plan, unless such employee elects, in a manner prescribed by the Board of the Authority, not to participate. The amount of the deferral under the automatic enrollment and the group of employees to which the automatic enrollment shall apply shall be set by the Board, provided, however, that such employees are provided the opportunity to increase or decrease the amount of the deferral in accordance with the Internal Revenue Code of 1986, as amended.

7. That the Virginia Commercial Space Flight Authority is hereby authorized to establish a plan providing short-term disability and long-term disability benefits for its employees.