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**HOUSE BILL NO. 2070**

Offered January 9, 2013

Prefiled January 9, 2013

A *BILL to amend and reenact §§ 33.1-23.4:01, 33.1-269, 58.1-638, and 58.1-815.4 of the Code of Virginia, relating to funding for transit.*

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Patron—Comstock

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Referred to Committee on Transportation

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

**1. That §§ 33.1-23.4:01, 33.1-269, 58.1-638, and 58.1-815.4 of the Code of Virginia are amended and reenacted as follows:**

**§ 33.1-23.4:01. Allocation of proceeds of Commonwealth of Virginia Transportation Capital Projects Revenue Bonds.**

The Commonwealth Transportation Board shall allocate, use, and distribute the proceeds of any bonds it is authorized to issue on or after July 1, 2007, pursuant to subdivision 4f of § 33.1-269, as follows:

1. A minimum of 20 percent of the bond proceeds shall be used for transit capital ~~consistent with~~ *as further described in* subdivision A 4 *g d* of § 58.1-638.

2. A minimum of 4.3 percent of the bond proceeds shall be used for rail capital consistent with the provisions of §§ 33.1-221.1:1.1 and 33.1-221.1:1.2.

3. The remaining amount of bond proceeds shall be used for paying the costs incurred or to be incurred for construction of transportation projects with such bond proceeds used or allocated as follows: (i) first, to match federal highway funds projected to be made available and allocated to highway and public transportation capital projects to the extent determined by the Commonwealth Transportation Board, for purposes of allowing additional state construction funds to be allocated to the primary, urban, and secondary systems of highways pursuant to subdivisions B 1, B 2, and B 3 of § 33.1-23.1; (ii) next, to provide any required funding to fulfill the Commonwealth's allocation of equivalent revenue sharing matching funds pursuant to § 33.1-23.05 to the extent determined by the Commonwealth Transportation Board; and (iii) third, to pay or fund the costs of statewide or regional projects throughout the Commonwealth. Costs incurred or to be incurred for construction or funding of these transportation projects shall include, but are not limited to, environmental and engineering studies, rights-of-way acquisition, improvements to all modes of transportation, acquisition, construction and related improvements, and any financing costs or other financing expenses relating to such bonds. Such costs may include the payment of interest on such bonds for a period during construction and not exceeding one year after completion of construction of the relevant project.

4. The total amount of bonds authorized shall be used for purposes of applying the percentages in subdivisions 1 through 3.

**§ 33.1-269. General powers of Board.**

The Commonwealth Transportation Board may, subject to the provisions of this article:

1. Acquire by purchase or by condemnation, construct, improve, operate and maintain any one or more of the projects mentioned and included in the undertaking defined in this article;

2. Issue revenue bonds of the Commonwealth, to be known and designated as "Commonwealth of Virginia Toll Revenue Bonds," payable from earnings and from any other available sources of funds, to pay the cost of such projects;

3. Subject to the limitations and approvals of § 33.1-279.1, issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Contract Revenue Bonds," secured by Transportation Trust Fund revenues under a payment agreement between the Board and the Treasury Board, subject to their appropriation by the General Assembly and payable first from revenues received pursuant to contracts with a primary highway transportation improvement district or transportation service district or other local revenue sources for which specific funding of any such bonds may be authorized by law; second, to the extent required, from funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the county or counties in which the project or projects to be financed are located; and third, to the extent required, from other legally available revenues of the Trust Fund and from any other available source of funds;

4. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Revenue Bonds," secured (i) by revenues received from the U.S. Route 58

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HB2070

59 Corridor Development Fund, subject to their appropriation by the General Assembly, (ii) to the extent  
60 required, from revenues legally available from the Transportation Trust Fund and (iii) to the extent  
61 required, from any other legally available funds which have been appropriated by the General Assembly;

62 4a. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of  
63 Virginia Transportation Revenue Bonds," secured, subject to their appropriation by the General  
64 Assembly, first from (i) revenues received from the Northern Virginia Transportation District Fund, (ii)  
65 to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as  
66 provided by law, to the highway construction district in which the project or projects to be financed are  
67 located or to the city or county in which the project or projects to be financed are located, (iii) to the  
68 extent required, legally available revenues of the Transportation Trust Fund, and (iv) such other funds  
69 which may be appropriated by the General Assembly;

70 4b. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of  
71 Virginia Transportation Program Revenue Bonds" secured, subject to their appropriation by the General  
72 Assembly, first from (i) any revenues received from any Set-aside Fund established by the General  
73 Assembly pursuant to § 58.1-816.1, (ii) to the extent required, revenues received pursuant to any  
74 contract with a local jurisdiction or any alternative mechanism for generation of local revenues for  
75 specific funding of a project satisfactory to the Commonwealth Transportation Board, (iii) to the extent  
76 required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by  
77 law, to the highway construction district in which the project or projects to be financed are located or to  
78 the city or county in which the project or projects to be financed are located, (iv) to the extent required,  
79 legally available revenues of the Transportation Trust Fund, and (v) such other funds which may be  
80 appropriated by the General Assembly. No bonds for any project or projects shall be issued under the  
81 authority of this subsection unless such project or projects are specifically included in a bill or resolution  
82 passed by the General Assembly;

83 4c. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of  
84 Virginia Transportation Program Revenue Bonds" secured, subject to their appropriation by the General  
85 Assembly, first from (i) any revenues received from the Commonwealth Transit Capital Fund established  
86 by the General Assembly pursuant to subdivision A 4 g d of § 58.1-638, (ii) to the extent required,  
87 legally available revenues of the Transportation Trust Fund, and (iii) such other funds which may be  
88 appropriated by the General Assembly. No bonds for any project or projects shall be issued under the  
89 authority of this subsection unless such project or projects are specifically included in a bill or resolution  
90 passed by the General Assembly;

91 4d. Issue revenue bonds of the Commonwealth from time to time to be known and designated as  
92 "Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes" secured, subject to  
93 their appropriation by the General Assembly, (i) first from any federal highway reimbursements and any  
94 other federal highway assistance received from time to time by the Commonwealth, (ii) then, at the  
95 discretion of the Board, to the extent required, from legally available revenues of the Transportation  
96 Trust Fund, and (iii) then from such other funds, if any, which are designated by the General Assembly  
97 for such purpose;

98 4e. Issue revenue bonds of the Commonwealth from time to time to be known and designated as  
99 "Commonwealth of Virginia Credit Assistance Revenue Bonds," secured, subject to their appropriation  
100 by the General Assembly, solely from revenues with respect to or generated by the project or projects  
101 being financed thereby and any tolls or other revenues pledged by the Board as security therefor and in  
102 accordance with the applicable federal credit assistance authorized with respect to such project or  
103 projects by the United States Department of Transportation;

104 4f. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of  
105 Virginia Transportation Capital Projects Revenue Bonds," secured, subject to their appropriation by the  
106 General Assembly, (i) from the revenues deposited into the Priority Transportation Fund established  
107 pursuant to § 33.1-23.03:8; (ii) to the extent required, from revenues legally available from the  
108 Transportation Trust Fund; and (iii) to the extent required, from any other legally available funds;

109 4g. Issue grant anticipation notes of the Commonwealth from time to time to be known and  
110 designated as "Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes"  
111 secured, subject to their appropriation by the General Assembly, (i) first from the project-specific  
112 reimbursements pursuant to § 33.1-23.23; (ii) then, at the discretion of the Board, to the extent required,  
113 from legally available revenues of the Transportation Trust Fund; and (iii) then from such other funds, if  
114 any, which are designated by the General Assembly for such purpose;

115 5. Fix and collect tolls and other charges for the use of such projects or to refinance the cost of such  
116 projects;

117 6. Construct grade separations at intersections of any projects with public highways, *railways*, streets  
118 or other public ways or places and change and adjust the lines and grades thereof so as to accommodate  
119 the same to the design of such grade separations, the cost of such grade separations and any damage  
120 incurred in changing and adjusting the lines and grades of such highways, streets, ways and places to be

ascertained and paid by the Board as a part of the cost of the project;

7. Vacate or change the location of any portion of any public highway, street or other public way or place and reconstruct the same at such new location as the Board deems most favorable for the project and of substantially the same type and in as good condition as the original highway, streets, way or place, the cost of such reconstruction and any damage incurred in vacating or changing the location thereof to be ascertained and paid by the Board as a part of the cost of the project. Any public highway, street or other public way or place vacated or relocated by the Board shall be vacated or relocated in the manner provided by law for the vacation or relocation of public roads and any damages awarded on account thereof may be paid by the Board as a part of the cost of the project;

8. Make reasonable regulations for the installation, construction, maintenance, repair, renewal and relocation of pipes, mains, sewers, conduits, cables, wires, towers, poles and other equipment and appliances herein called "public utility facilities," of the Commonwealth and of any municipality, county, or other political subdivision, public utility or public service corporation owning or operating the same in, on, along, over or under the project. Whenever the Board determines that it is necessary that any such public utility facilities should be relocated or removed, the Commonwealth or such municipality, county, political subdivision, public utility or public service corporation shall relocate or remove the same in accordance with the order of the Board. The cost and expense of such relocation or removal, including the cost of installing such public utility facilities in a new location or locations, and the cost of any lands or any rights or interests in lands, and any other rights acquired to accomplish such relocation or removal shall be ascertained by the Board.

On any toll project, the Board shall pay the cost and expense of relocation or removal as a part of the cost of the project for those public utility facilities owned or operated by the Commonwealth or such municipality, county, political subdivision, public utility or public service corporation. On all other projects, under this article, the Board shall pay the cost and expense of relocation or removal as a part of the cost of the project for those public utility facilities owned or operated by the Commonwealth or such municipality, county, or political subdivision. The Commonwealth or such municipality, county, political subdivision, public utility or public service corporation may maintain and operate such public utility facilities with the necessary appurtenances, in the new location or locations, for as long a period and upon the same terms and conditions as it had the right to maintain and operate such public utility facilities in their former location or locations;

9. Acquire by the exercise of the power of eminent domain any lands, property, rights, rights-of-way, franchises, easements and other property, including public lands, parks, playgrounds, reservations, highways or parkways, or parts thereof or rights therein, of any municipality, county or other political subdivision, deemed necessary or convenient for the construction or the efficient operation of the project or necessary in the restoration, replacement or relocation of public or private property damaged or destroyed.

The cost of such projects shall be paid solely from the proceeds of Commonwealth of Virginia Toll or Transportation Contract Revenue Bonds or a combination thereof or from such proceeds and from any grant or contribution which may be made thereto pursuant to the provisions of this article;

10. Notwithstanding any provision of this article to the contrary, the Board shall be authorized to exercise the powers conferred herein, in addition to its general powers to acquire rights-of-way and to construct, operate and maintain state highways, with respect to any project which the General Assembly has authorized or may hereafter authorize to be financed in whole or in part through the issuance of bonds of the Commonwealth pursuant to the provisions of Section 9 (c) of Article X of the Constitution of Virginia; and

11. Enter into any agreements or take such other actions as the Board shall determine in connection with applying for or obtaining any federal credit assistance, including without limitation loan guarantees and lines of credit, pursuant to authorization from the United States Department of Transportation with respect to any project included in the Commonwealth's long-range transportation plan and the approved State Transportation Improvement Program.

**§ 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 14.7 percent 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.

3a. There is hereby created in the Department of the Treasury a special nonreverting fund that shall be a part of the Transportation Trust Fund and that 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 to the Commonwealth Space Flight Fund pursuant to § 33.1-23.03:2 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 commercial space flight industry in Virginia.

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.

e. 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. Prior to the annual adoption of the Six-Year Improvement Program, the Commonwealth Transportation Board may allocate up to 20 percent of the funds in the Commonwealth Mass Transit Fund designated for capital purposes to transit operating assistance if operating funds for the next fiscal year are estimated to be less than the current fiscal year's allocation, to attempt to maintain transit operations at approximately the same level as the previous fiscal year.

b. The amounts allocated pursuant to this section shall be used to support the operating capital and administrative costs for public transportation at a state share determined by the Commonwealth Transportation Board, and these amounts may be used to support capital project costs for public transportation and ridesharing equipment, facilities, and associated costs at a state share determined by the Commonwealth Transportation Board. Capital costs may include debt service payments on local or agency transit bonds. In making these determinations, the Commonwealth Transportation Board shall confer with the Director of the Department of Rail and Public Transportation. In development of the Director's recommendation and subsequent allocation of funds by the Commonwealth Transportation Board, the Director of the Department of Rail and Public Transportation and the Commonwealth Transportation Board shall take into consideration that:

(1) Funds pursuant to this section will be distributed among operating, capital, and special projects in order to respond to the needs of the transit community.

(2) Of the funds pursuant to this section, at least 72 percent shall be allocated to support operating costs of transit providers and distributed by the Commonwealth Transportation Board based on a series

305 of measures that will be a combination of 50 percent of the funds provided based on system size factors  
306 and 50 percent of the funds based on performance factors as established by the Commonwealth  
307 Transportation Board. These measures and their relative weight shall be evaluated every three years  
308 and, if redefined by the Commonwealth Transportation Board, shall be published and made available  
309 for public comment at least one year in advance of being applied.

310 (3) Funds for special programs, which shall include ridesharing, transportation demand management  
311 programs, experimental transit, public transportation promotion, operation studies, and technical  
312 assistance, shall not exceed 3 percent of the funds pursuant to this section and may be allocated to any  
313 local governing body, planning district commission, transportation district commission, or public transit  
314 corporation, or may be used directly by the Department of Rail and Public Transportation for the  
315 following purposes and aid of public transportation services:

316 (a) To finance a program administered by the Department of Rail and Public Transportation  
317 designed to promote the use of public transportation and ridesharing throughout Virginia.

318 (b) To finance up to 80 percent of the cost of the development and implementation of any other  
319 project designated by the Board where the purpose of such project is to enhance the provision and use  
320 of public transportation services.

321 (4) Of the funds pursuant to this section, 25 percent shall be allocated and distributed utilizing a  
322 tiered approach established by the Commonwealth Transportation Board for capital purposes based on  
323 asset need and anticipated state participation level and revenues. The tier distribution measures may be  
324 evaluated every three years and, if redefined by the Board, shall be published at least one year in  
325 advance of being applied.

326 (5) Transfer of funds between funding categories in subdivisions 4 b (2), 4 b (3), and 4 b (4) shall  
327 be considered in times of economic distress or special need.

328 (6) The Department of Rail and Public Transportation may retain a balance of up to five percent of  
329 the Commonwealth Mass Transit Fund revenues in order to assure better stability in funding to transit  
330 entities from year to year.

331 (7) The Commonwealth Mass Transit Fund shall not be allocated without requiring a local match  
332 from the recipient.

333 ~~g.~~ c. In developing the performance factors, the Commonwealth Transportation Board shall consult  
334 with all interested stakeholders and hold at least one public hearing. Prior to approving the  
335 performance factors, the Director of the Department of Rail and Public Transportation shall brief the  
336 Senate Committee on Finance, the House Appropriations Committee, and the Senate and House  
337 Committees on Transportation. Before redefining any component of the performance factors, the  
338 Commonwealth Transportation Board shall consult with all interested stakeholders and provide for a  
339 30-day public comment period. Prior to approval of any amendment to the performance measures, the  
340 Board shall notify the aforementioned committees of the pending amendment to the performance factors  
341 and its content.

342 d. There is hereby created in the Department of the Treasury a special nonreverting fund known as  
343 the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the  
344 Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be  
345 established on the books of the Comptroller and consist of such moneys as are appropriated to it by the  
346 General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given,  
347 bequeathed, granted, or otherwise made available to the Commonwealth Transit Capital Fund. Any funds  
348 remaining in the Commonwealth Transit Capital Fund at the end of the biennium shall not revert to the  
349 general fund, but shall remain in the Commonwealth Transit Capital Fund. Interest earned on funds  
350 within the Commonwealth Transit Capital Fund shall remain in and be credited to the Commonwealth  
351 Transit Capital Fund. Proceeds of the Commonwealth Transit Capital Fund may be paid to any political  
352 subdivision, another public entity created by an act of the General Assembly, or a private entity as  
353 defined in § 56-557 and for purposes as enumerated in subdivision 4c of § 33.1-269 or expended by the  
354 Department of Rail and Public Transportation for the purposes specified in this subdivision. Revenues of  
355 the Commonwealth Transit Capital Fund shall be used to support capital expenditures involving the  
356 establishment, improvement, or expansion of public transportation services through specific projects  
357 approved by the Commonwealth Transportation Board. Projects financed by the Commonwealth Transit  
358 Capital Fund shall receive local, regional or private funding for at least 20 percent of the nonfederal  
359 share of the total project cost.

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

363 a. Local obligations for debt service for WMATA rail transit bonds apportioned to each locality  
364 using WMATA's capital formula shall be paid first by NVTC. NVTC shall use 95 percent state aid for  
365 these payments.

366 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.

*e. The Commonwealth Transportation Board may allocate up to three and one-half percent of the funds set aside for the Commonwealth Mass Transit Fund to support costs of project development, project administration, and project complicate incurred by the Department of Rail and Public Transportation in implementing rail, public transportation, and congestion management grants and programs.*

*5. Appropriations from the Commonwealth Mass Transit Fund for funding the Metro system operated by the Washington Metropolitan Area Transit Authority (WMATA) are intended to provide a stable and reliable source of revenue as defined by Public Law 96-184. Notwithstanding any other provision of law, funds allocated to Metro under this program may be disbursed by the Department of Rail and Public Transportation directly to Metro or to any other transportation entity that has an agreement to provide funding to Metro as deemed appropriate by the Department of Rail and Public Transportation.*

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 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 individuals receiving services in state hospitals, state training centers, or mental health facilities, persons who are confined in state or federal correctional institutions, or persons 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 school population of the entire county. If the school population of any city or of any town constituting a school division is increased by the annexation of territory since the last estimate of school population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school population of such city or town as shown by the last such estimate and a proper reduction made in the school population 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 § 29.1-101.01, 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.

**§ 58.1-815.4. (Contingent expiration - see Editor's notes) Distribution of recordation tax for certain transportation-related purposes.**

Effective July 1, 2008, of the state recordation taxes imposed pursuant to §§ 58.1-801 and 58.1-803, the revenues collected each fiscal year from \$0.03 of the total tax imposed under each section shall be deposited by the Comptroller as follows:

1. The revenues collected from \$0.02 of the total tax shall be deposited into the Commonwealth Mass Transit Fund pursuant to subdivision A 4 e b (2) of § 58.1-638; and

2. The revenues collected from \$0.01 of the total tax shall be deposited into the Highway Maintenance and Operating Fund.