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SENATE BILL NO. 1256

Offered January 21, 1999

A BILL to amend and reenact §§ 33.1-23.03:2, 33.1-269, and 58.1-638 of the Code of Virginia, relating to the Transportation Trust Fund, High Priority Transit Project Fund, disposition of state sales and use tax revenues, and disposition of motor vehicle sales and use tax revenues.

Patrons—Whipple, Colgan, Hawkins, Howell, Lambert, Marsh, Mims and Walker; Delegates: Albo, Baskerville, Crittenden, Darner, Hall, Moran, Plum, Robinson, Van Landingham and Van Yahres

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-23.03:2, 33.1-269, and 58.1-638 of the Code of Virginia are amended and reenacted as follows:

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

~~Of Portions of the funds becoming part of the Transportation Trust Fund pursuant to subdivision 3 of § 33.1-23.03:1; 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.~~

§ 33.1-269. 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 Corridor Development Fund, subject to their appropriation by the General Assembly, (ii) to the extent required, from revenues legally available from the Transportation Trust Fund and (iii) to the extent required, from any other legally available funds which have been appropriated by the General Assembly;

4a. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Revenue Bonds," secured, subject to their appropriation by the General Assembly, first from (i) revenues received from the Northern Virginia Transportation District Fund, (ii) to the extent required, 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 city or county in which the project or projects to be financed are located, (iii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iv) such other funds which may be appropriated by the General Assembly;

4b. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of

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60 Virginia Transportation Program Revenue Bonds" secured, subject to their appropriation by the General
61 Assembly, first from (i) any revenues received from any Set-aside Fund established by the General
62 Assembly pursuant to § 58.1-816.1, (ii) to the extent required, revenues received pursuant to any
63 contract with a local jurisdiction or any alternative mechanism for generation of local revenues for
64 specific funding of a project satisfactory to the Commonwealth Transportation Board, (iii) to the extent
65 required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by
66 law, to the highway construction district in which the project or projects to be financed are located or to
67 the city or county in which the project or projects to be financed are located, (iv) to the extent required,
68 legally available revenues of the Transportation Trust Fund, and (v) such other funds which may be
69 appropriated by the General Assembly. No bonds for any project or projects shall be issued under the
70 authority of this subsection unless such project or projects are specifically included in a bill or resolution
71 passed by the General Assembly;

72 *4c. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of*
73 *Virginia Transportation Program Revenue Bonds" secured, subject to their appropriation by the General*
74 *Assembly, first from (i) any revenues received from the High Priority Transit Project Fund established*
75 *by the General Assembly pursuant to subdivision A 4 g of § 58.1-638, (ii) to the extent required, legally*
76 *available revenues of the Transportation Trust Fund, and (iii) such other funds which may be*
77 *appropriated by the General Assembly. No bonds for any project or projects shall be issued under the*
78 *authority of this subsection unless such project or projects are specifically included in a bill or*
79 *resolution passed by the General Assembly;*

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

82 6. Construct grade separations at intersections of any projects with public highways, streets or other
83 public ways or places and change and adjust the lines and grades thereof so as to accommodate the
84 same to the design of such grade separations, the cost of such grade separations and any damage
85 incurred in changing and adjusting the lines and grades of such highways, streets, ways and places to be
86 ascertained and paid by the Board as a part of the cost of the project;

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

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

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

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

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.

§ 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 hereinafter provided in this section; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund as hereinafter 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 hereinafter 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 Fund 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:

From July 1, 1995, through June 30, 2000, 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: sixty percent to MWAA, up to a maximum annual amount of two million dollars, and forty 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 1994-95.

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.

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

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

191 b. The amounts allocated pursuant to this section may be used to support a maximum of fifty percent
192 of the public transportation administrative costs and up to eighty percent of the costs of ridesharing
193 programs borne by the locality. These amounts may be used to support up to ninety-five percent of the
194 local or nonfederal share of capital project costs for public transportation and ridesharing equipment,
195 facilities, and associated costs. Capital costs may include debt service payments on local or agency
196 transit bonds. Further, these amounts may be used to support a maximum of ninety-five percent of the
197 costs borne by the locality for the purchase of fuels, lubricants, tires and maintenance parts and supplies
198 for public transportation. The term "borne by the locality" shall mean the local share eligible for state
199 assistance consisting of costs in excess of the sum of fares and other operating revenues plus federal
200 assistance received by the locality.

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

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

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

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

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

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

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

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

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

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

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

231 f. The remaining twenty-five percent shall be distributed for capital purposes on the basis of
232 ninety-five percent of the nonfederal share for federal projects and ninety-five percent of the total costs
233 for nonfederal projects. In the event that total capital funds available under this ~~paragraph~~ subdivision
234 are insufficient to fund the complete list of eligible projects, the funds shall be distributed to each transit
235 property in the same proportion that such capital expenditure bears to the statewide total of capital
236 projects.

237 g. *There is hereby created in the Department of the Treasury a special nonreverting fund known as*
238 *the High Priority Transit Project Fund. The High Priority Transit Project Fund shall be part of the*
239 *Commonwealth Mass Transit Fund. The High Priority Transit Project Fund shall be established on the*
240 *books of the Comptroller and consist of such moneys as are appropriated to it by the General Assembly*
241 *and of all donations, gifts, bequests, grants, endowments, and other moneys given, bequeathed, granted,*
242 *or otherwise made available to the High Priority Transit Project Fund. Any funds remaining in the High*
243 *Priority Transit Project Fund at the end of the biennium shall not revert to the general fund, but shall*
244 *remain in the High Priority Transit Project Fund. Interest earned on funds within the High Priority*

Transit Project Fund shall remain in and be credited to the High Priority Transit Project Fund. Proceeds of the High Priority Transit Project Fund may be paid to any local governing body, transportation district commission, or public service corporation or expended by the Department of Rail and Public Transportation for the purposes specified in this subdivision. Proceeds of the High Priority Transit Project 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.

5. Funds for Metro shall be paid by the Northern Virginia Transportation Commission 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 payments of WMATA rail transit bonds shall be paid first and apportioned to each locality using the WMATA capital formula.

b. The remaining funds shall be apportioned by calculating twenty-five percent of the capital and operating costs and seventy-five percent of the capital and operating subsidies applied to each locality. Capital costs may include twenty percent of annual local bus capital expenses.

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

B. The sales and use tax revenue generated by a one percent sales and use tax shall be distributed among the counties and cities of this Commonwealth in the manner hereafter in this section provided.

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

D. The net revenue so distributable among the counties and cities shall be apportioned and distributed upon the basis as certified to the Comptroller by the Department of Education, of the number of children in each county and city according to the most recent statewide census of school population taken by the Department of Education pursuant to § 22.1-284, as adjusted in the manner hereinafter provided. No special school population census, other than a statewide census, shall be used as the basis of apportionment and distribution except that in any calendar year in which a statewide census is not reported, the Department of Education shall adjust such school population figures by the same percent of annual change in total population estimated for each locality by The Center for Public Service. 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 preceding school population census, 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 census 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 thirty days after the close of each quarter, the Comptroller shall transfer to the Game Protection Fund the appropriate amount of collections to be dedicated to such Fund. At any time that the balance in the Capital Improvement Fund, established under § 29.1-101.1, is equal to or in excess of \$35 million, any portion of sales and use tax revenues that would have been transferred to the Game Protection Fund, established under § 29.1-101, in excess of the net operating expenses of the Board, after deduction of other amounts which accrue to the Board and are set aside for the Game Protection Fund, shall remain in the general fund until such time as the balance in the Capital Improvement Fund is less than \$35 million.

306 F. If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall be
307 corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.
308 G. The term "net revenue," as used in this section, means the gross revenue received into the general
309 fund or the Transportation Trust Fund of the state treasury under the preceding sections of this chapter,
310 less refunds to taxpayers.