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HOUSE BILL NO. 727

Offered January 9, 2008

Prefiled January 8, 2008

A *BILL to amend and reenact §§ 2.2-1514, as it is currently effective and as it may become effective, 10.1-2128, 10.1-2129, 10.1-2130, 10.1-2132, 10.1-2133, 10.1-2134, and 58.1-638 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 3.1-18.10:01 and 10.1-2128.1, relating to natural resources funding.*

Patron—Scott, E.T.

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1514, as it is currently effective and as it may become effective, 10.1-2128, 10.1-2129, 10.1-2130, 10.1-2132, 10.1-2133, 10.1-2134, and 58.1-638 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 3.1-18.10:01 and 10.1-2128.1 as follows:

§ 2.2-1514. (Contingent expiration date - see Editor's notes) Designation of general fund for nonrecurring expenditures.

A. As used in this section:

"The Budget Bill" means the "The Budget Bill" submitted pursuant to § 2.2-1509, including any amendments to a general appropriation act pursuant to such section.

"Nonrecurring expenditures" means the acquisition or construction of capital outlay projects as defined in § 2.2-1503.2, the acquisition or construction of capital improvements, the acquisition of land, the acquisition of equipment, or other expenditures of a one-time nature as specified in the general appropriation act. Such term shall not include any expenditures relating to transportation, including but not limited to transportation maintenance.

B. At the end of each fiscal year, the Comptroller shall designate within his annual report pursuant to § 2.2-813 as follows: one-third of the remaining amount of the general fund balance that is not otherwise reserved or designated shall be designated by the Comptroller for nonrecurring expenditures, and two-thirds shall be designated for deposit into the Transportation Trust Fund. No such designation shall be made unless the full amounts required for other reserves or designations including, but not limited to, (i) the Revenue Stabilization Fund deposit pursuant to § 2.2-1829, (ii) the Virginia Water Quality Improvement Fund deposit pursuant to § 10.1-2128, *but excluding any deposits provided under the Virginia Natural Resources Commitment Fund established under § 10.1-2128.1*, (iii) capital outlay reappropriations pursuant to the general appropriation act, (iv) (a) operating expense reappropriations pursuant to the general appropriation act, and (b) reappropriations of unexpended appropriations to certain public institutions of higher education pursuant to § 2.2-5005, (v) pro rata rebate payments to certain public institutions of higher education pursuant to § 2.2-5005, (vi) the unappropriated balance anticipated in the general appropriation act for the end of such fiscal year, and (vii) interest payments on deposits of certain public institutions of higher education pursuant to § 2.2-5005 are set aside. The Comptroller shall set aside amounts required for clauses (iv) (b), (v), and (vii) beginning with the initial fiscal year as determined under § 2.2-5005 and for all fiscal years thereafter.

C. The Governor shall include in "The Budget Bill" pursuant to § 2.2-1509 recommended appropriations from the general fund or recommended amendments to general fund appropriations in the general appropriation act in effect at that time an amount for nonrecurring expenditures and an amount for deposit into the Transportation Trust Fund equal to the amounts designated by the Comptroller for such purposes pursuant to the provisions of subsection B. Such deposit to the Transportation Trust Fund shall not preclude the appropriation of additional amounts from the general fund for transportation purposes.

§ 2.2-1514. (Contingent effective date - see Editor's notes) Designation of general fund for nonrecurring expenditures.

A. As used in this section:

"The Budget Bill" means the "The Budget Bill" submitted pursuant to § 2.2-1509, including any amendments to a general appropriation act pursuant to such section.

"Nonrecurring expenditures" means the acquisition or construction of capital outlay projects as defined in § 2.2-1503.2, the acquisition or construction of capital improvements, the acquisition of land, the acquisition of equipment, or other expenditures of a one-time nature as specified in the general appropriation act.

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59 B. At the end of each fiscal year, the Comptroller shall designate within his annual report pursuant to
60 § 2.2-813 an amount for nonrecurring expenditures, which shall equal the remaining amount of the
61 general fund balance that is not otherwise reserved or designated. No such designation shall be made
62 unless the full amounts required for other reserves or designations including, but not limited to, (i) the
63 Revenue Stabilization Fund deposit pursuant to § 2.2-1829, (ii) the Virginia Water Quality Improvement
64 Fund deposit pursuant to § 10.1-2128, *but excluding any deposits provided under the Virginia Natural*
65 *Resources Commitment Fund established under § 10.1-2128.1*, (iii) capital outlay reappropriations
66 pursuant to the general appropriation act, (iv) (a) operating expense reappropriations pursuant to the
67 general appropriation act, and (b) reappropriations of unexpended appropriations to certain public
68 institutions of higher education pursuant to § 2.2-5005, (v) pro rata rebate payments to certain public
69 institutions of higher education pursuant to § 2.2-5005, (vi) the unappropriated balance anticipated in the
70 general appropriation act for the end of such fiscal year, and (vii) interest payments on deposits of
71 certain public institutions of higher education pursuant to § 2.2-5005 are set aside. The Comptroller shall
72 set aside amounts required for clauses (iv) (b), (v), and (vii) beginning with the initial fiscal year as
73 determined under § 2.2-5005 and for all fiscal years thereafter.

74 C. The Governor shall include in "The Budget Bill" pursuant to § 2.2-1509 recommended
75 appropriations from the general fund or recommended amendments to general fund appropriations in the
76 general appropriation act in effect at that time an amount for nonrecurring expenditures equal to the
77 amount designated by the Comptroller for such purpose pursuant to the provisions of subsection B of
78 this section.

79 § 3.1-18.10:01. *Local Purchase of Development Rights Matching Grant Fund established.*

80 *There is hereby created in the state treasury a special fund to be known as the Local Purchase of*
81 *Development Rights Matching Grant Fund, hereafter referred to as "the Fund." The Fund shall be*
82 *established on the books of the Comptroller. All revenues described in subdivision B 1 of § 10.1-2128.1*
83 *and such other funds as may be made available to the Fund from any other source, public or private,*
84 *shall be paid into the state treasury and credited to the Fund. Any moneys remaining in the Fund as of*
85 *January 1 in each fiscal year, including interest thereon, shall immediately revert to the Virginia*
86 *Natural Resources Commitment Fund established under § 10.1-2128.1, and the Comptroller is hereby*
87 *directed to make any such reversionary deposits into the Virginia Natural Resources Commitment Fund*
88 *as soon as practicable.*

89 *Moneys in the Fund shall be used solely for the purposes of providing grants, on a matching basis,*
90 *to local purchase of development rights programs that have been certified pursuant to this chapter.*

91 *Grants shall be distributed to local purchase of development rights programs under policies,*
92 *procedures, and guidelines developed by the Office of Farmland Preservation. However, in each fiscal*
93 *year 60 percent of the moneys deposited into the Fund shall be used for grants for local purchase of*
94 *development rights programs of counties and cities wholly or partly within the Chesapeake Bay*
95 *watershed and 40 percent of the moneys deposited into the Fund shall be used for grants for local*
96 *purchase of development rights programs of all other counties and cities.*

97 *In general, for each \$1 received from the Fund, the local purchase of development rights program*
98 *shall be required to provide a \$1 match. However, if, as of July 1 in the fiscal year, the total "value" of*
99 *all land in a county or city, but excluding structures, upon which the real estate tax is imposed does not*
100 *exceed 70 percent of the total fair market value of all land, excluding structures, in the county or city,*
101 *then for that fiscal year the local purchase of development rights program for the county or city shall*
102 *be required to match each \$1 received from the Fund with \$0.50. For purposes herein, "value" shall*
103 *mean the fair market value of land unless the land has been valued for tax purposes pursuant to Article*
104 *4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, in which case "value" shall mean the value as*
105 *determined pursuant to such Article. In addition, for purposes of this computation, the data in the most*
106 *recently published annual report of the Virginia Department of Taxation shall be used.*

107 *The match made by the local purchase of development rights program shall not be made in anything*
108 *other than money. In addition, such match shall not be made from state or federal moneys received by*
109 *the county or city (or by the purchase of development rights program) for agriculture, preservation,*
110 *conservation, or natural resource purposes.*

111 *The Fund shall be administered by the Coordinator of the Office of Farmland Preservation.*
112 *Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued*
113 *by the Comptroller upon written request signed by the Commissioner of Agriculture and Consumer*
114 *Services.*

115 § 10.1-2128. *Virginia Water Quality Improvement Fund established; purposes.*

116 A. There is hereby established in the state treasury a special permanent, nonreverting fund, to be
117 known as the "Virginia Water Quality Improvement Fund." The Fund shall be established on the books
118 of the Comptroller. The Fund shall consist of sums appropriated to it by the General Assembly which
119 shall include, unless otherwise provided in the general appropriation act, 10 percent of the annual
120 general fund revenue collections that are in excess of the official estimates in the general appropriation

act and 10 percent of any unreserved general fund balance at the close of each fiscal year whose reappropriation is not required in the general appropriation act. The Fund shall also consist of such other sums as may be made available to it from any other source, public or private, and shall include any penalties or damages collected under this article, federal grants solicited and received for the specific purposes of the Fund, and all interest and income from investment of the Fund. Any sums remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. All moneys designated for the Fund shall be paid into the state treasury and credited to the Fund. Moneys in the Fund shall be used solely for Water Quality Improvement Grants. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon the written request of the Director of the Department of Environmental Quality or the Director of the Department of Conservation and Recreation as provided in this chapter.

B. ~~The~~ *Except as otherwise provided under this article*, the purpose of the Fund is to provide Water Quality Improvement Grants to local governments, soil and water conservation districts, institutions of higher education and individuals for point and nonpoint source pollution prevention, reduction and control programs and efforts undertaken in accordance with the provisions of this chapter. The Fund shall not be used for agency operating expenses or for purposes of replacing or otherwise reducing any general, nongeneral, or special funds allocated or appropriated to any state agency; however, nothing in this section shall be construed to prevent the award of a Water Quality Improvement Grant to a local government in connection with point or nonpoint pollution prevention, reduction and control programs or efforts undertaken on land owned by the Commonwealth and leased to the local government. In keeping with the purpose for which the Fund is created, it shall be the policy of the General Assembly to provide annually its share of financial support to qualifying applicants for grants in order to fulfill the Commonwealth's responsibilities under Article XI of the Constitution of Virginia.

C. For the fiscal year beginning July 1, 2005, \$50 million shall be appropriated from the general fund and deposited into the Fund. ~~This~~ *Except as otherwise provided under this article*, such appropriation and any amounts appropriated to the Fund in subsequent years in addition to any amounts deposited to the Fund pursuant to the provisions of subsection A of § 10.1-2128 shall be used solely to finance the costs of design and installation of nutrient removal technology at publicly owned treatment works designated as significant dischargers or eligible nonsignificant dischargers for compliance with the effluent limitations for total nitrogen and total phosphorus as required by the tributary strategy plans or applicable regulatory requirements.

At such time as grant agreements specified in § 10.1-2130 have been signed by every significant discharger and eligible nonsignificant discharger and available funds are sufficient to implement the provisions of such grant agreements, the House Committee on Agriculture, Chesapeake and Natural Resources, the House Committee on Appropriations, the Senate Committee on Agriculture, Conservation and Natural Resources, and the Senate Committee on Finance shall review the financial assistance provided under this section and determine (i) whether such deposits should continue to be made, (ii) the size of the deposit to be made, (iii) the programs and activities that should be financed by such deposits in the future, and (iv) whether the provisions of this section should be extended.

§ 10.1-2128.1. Virginia Natural Resources Commitment Fund established.

A. *There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Natural Resources Commitment Fund hereafter referred to as "the Subfund", which shall be a subfund of the Virginia Water Quality Improvement Fund. The Subfund shall be established on the books of the Comptroller. All revenues described in subsection G of § 58.1-638 and such other funds as may be made available to the Subfund from any other source, public or private, shall be paid into the state treasury and credited to the Subfund. Interest earned on moneys in the Subfund shall remain in the Subfund and be credited to it. Any moneys remaining in the Subfund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Subfund. Moneys in the Subfund shall be used solely for the purposes as described in subsection B.*

B. *For each \$1 deposited into the Subfund:*

1. *\$0.33 shall be deposited into the Local Purchase of Development Rights Matching Grant Fund established under § 3.1-18.10:01 and reserved for matching grants to local purchase of development rights programs. However, if in any fiscal year funds of the Local Purchase of Development Rights Matching Grant Fund revert back to the Subfund as provided in § 3.1-18.10:01, then no deposits shall be made into the Local Purchase of Development Rights Matching Grant Fund beginning January 1 of the fiscal year and for the remainder of such fiscal year and any moneys that otherwise would have been deposited into the Local Purchase of Development Rights Matching Grant Fund shall be used as provided in subdivision 2.*

2. *\$0.67 shall be administered by the Department of Conservation and Recreation through distributions to the Agricultural Best Management Practices Cost-Share Program for the sole purpose of implementing best management practices that reduce nitrogen and phosphorous pollution from*

182 agricultural lands. Such amount shall be distributed in accordance with the following:

183 a. In each fiscal year, five percent of the total amount distributed to the Agricultural Best
184 Management Practices Cost-Share Program shall be distributed to soil and water conservation districts
185 to provide technical assistance for the implementation of such agricultural best management practices.
186 Each soil and water conservation district in the Commonwealth shall receive an equal share.

187 b. In each fiscal year, 57 percent of the total amount distributed to the Agricultural Best
188 Management Practices Cost-Share Program shall be used for matching grants for agricultural best
189 management practices on lands exclusively within the Chesapeake Bay watershed.

190 c. In each fiscal year, 38 percent of the total amount distributed to the Agricultural Best
191 Management Practices Cost-Share Program shall be used for matching grants for agricultural best
192 management practices on all other lands in the Commonwealth.

193 C. Expenditures and disbursements from the Subfund for the Agricultural Best Management Practices
194 Cost-Share Program shall be made by the State Treasurer on warrants issued by the Comptroller upon
195 written request signed by the Director of the Department of Conservation and Recreation.

196 § 10.1-2129. Agency coordination; conditions of grants.

197 A. If, in any fiscal year beginning on or after July 1, 2005, there are appropriations to the Fund in
198 addition to those made pursuant to subsection A of § 10.1-2128, the Secretary of Natural Resources shall
199 distribute those moneys in the Fund provided from the 10 percent of the annual general fund revenue
200 collections that are in excess of the official estimates in the general appropriation act, and the 10 percent
201 of any unreserved general fund balance at the close of each fiscal year whose reappropriation is not
202 required in the general appropriation act, as follows:

203 1. Seventy percent of the moneys shall be distributed to the Department of Conservation and
204 Recreation and shall be administered by it for the sole purpose of implementing projects or best
205 management practices that reduce nitrogen and phosphorus nonpoint source pollution, with a priority
206 given to agricultural best management practices. In no single year shall more than 60 percent of the
207 moneys be used for projects or practices exclusively within the Chesapeake Bay watershed; and

208 2. Thirty percent of the moneys shall be distributed to the Department of Environmental Quality,
209 which shall use such moneys for making grants for the sole purpose of designing and installing nutrient
210 removal technologies for publicly owned treatment works designated as significant dischargers or
211 eligible nonsignificant dischargers. The moneys shall also be available for grants when the design and
212 installation of nutrient removal technology utilizes the Public-Private Education Facilities and
213 Infrastructure Act (§ 56-575.1 et seq.).

214 3. Except as otherwise provided in the Appropriation Act, in any fiscal year ~~when moneys are not~~
215 ~~appropriated to the Fund in addition to those specified in subsection A of § 10.1-2128, or when moneys~~
216 ~~appropriated to the Fund in addition to those specified in subsection A of § 10.1-2128~~ *Agricultural Best*
217 *Management Practices Cost-Share Program pursuant to subdivision B 2 of § 10.1-2128.1 are reasonably*
218 *anticipated to be less than 40 percent of those specified in subsection A of § 10.1-2128*, the Secretary of
219 Natural Resources, in consultation with the Secretary of Agriculture and Forestry, the State Forester, the
220 Commissioner of Agriculture and Consumer Services, and the Directors of the Departments of
221 Environmental Quality and Conservation and Recreation, and with the advice and guidance of the Board
222 of Conservation and Recreation, the Virginia Soil and Water Conservation Board, the State Water
223 Control Board, and the Chesapeake Bay Local Assistance Board, and following a public comment period
224 of at least 30 days and a public hearing, shall allocate those moneys deposited in the Fund, *but*
225 *excluding any moneys deposited into the Virginia Natural Resources Commitment Fund established*
226 *pursuant to § 10.1-2128.1*, between point and nonpoint sources, both of which shall receive moneys in
227 each such year.

228 B. 1. Except as may otherwise be specified in the general appropriation act, the Secretary of Natural
229 Resources, in consultation with the Secretary of Agriculture and Forestry, the State Forester, the
230 Commissioner of Agriculture and Consumer Services, and the Directors of the Departments of
231 Environmental Quality and Conservation and Recreation, and with the advice and guidance of the Board
232 of Conservation and Recreation, the Virginia Soil and Water Conservation Board, the State Water
233 Control Board, and the Chesapeake Bay Local Assistance Board, shall develop written guidelines that (i)
234 specify eligibility requirements; (ii) govern the application for and the distribution and conditions of
235 Water Quality Improvement Grants; and (iii) list criteria for prioritizing funding requests.

236 2. In developing the guidelines the Secretary shall evaluate and consider, in addition to such other
237 factors as may be appropriate to most effectively restore, protect and improve the quality of state waters:
238 (i) specific practices and programs proposed in any tributary strategy plan, and the associated
239 effectiveness and cost per pound of nutrients removed; (ii) water quality impairment or degradation
240 caused by different types of nutrients released in different locations from different sources; and (iii)
241 environmental benchmarks and indicators for achieving improved water quality. The process for
242 development of guidelines pursuant to this subsection shall, at a minimum, include (a) use of an
243 advisory committee composed of interested parties; (b) a 60-day public comment period on draft

guidelines; (c) written responses to all comments received; and (d) notice of the availability of draft guidelines and final guidelines to all who request such notice.

3. In addition to those the Secretary deems advisable to most effectively restore, protect and improve the quality of state waters, the criteria for prioritizing funding requests shall include: (i) the pounds of total nitrogen and the pounds of total phosphorus reduced by the project; (ii) whether the location of the water quality restoration, protection or improvement project or program is within a watershed or subwatershed with documented water nutrient loading problems or adopted nutrient reduction goals; (iii) documented water quality impairment; and (iv) the availability of other funding mechanisms. Notwithstanding the provisions of subsection E of § 10.1-2131, the Director of the Department of Environmental Quality may approve a local government point source grant application request for any single project that exceeds the authorized grant amount outlined in subsection E of § 10.1-2131. ~~Whenever~~ *With the exception of funds reserved for matching grants to local purchase of development rights programs pursuant to § 10.1-2128.1, which shall be governed under § 3.1-18.10:01, whenever* a local government applies for a grant that exceeds the authorized grant amount outlined in this chapter or when there is no stated limitation on the amount of the grant for which an application is made, the Directors and the Secretary shall consider the comparative revenue capacity, revenue efforts and fiscal stress as reported by the Commission on Local Government. The development or implementation of cooperative programs developed pursuant to subsection B of § 10.1-2127 shall be given a high priority in the distribution of Virginia Water Quality Improvement Grants from the moneys allocated to nonpoint source pollution.

§ 10.1-2130. General provisions related to grants from the Fund.

All Water Quality Improvement Grants shall be governed by a legally binding and enforceable grant agreement between the recipient and the granting agency. In addition to provisions providing for payment of the total amount of the grant, the agreement shall, at a minimum, also contain provisions that govern design and installation and require proper long-term operation, monitoring and maintenance of funded projects, including design and performance criteria, as well as contractual or stipulated penalties in an amount sufficient to ensure compliance with the agreement, which may include repayment with interest, for any breach of the agreement, including failure to properly operate, monitor or maintain. Grant agreements shall be made available for public review and comment for a period of no less than thirty days but no more than sixty days prior to execution. The granting agency shall cause notice of a proposed grant agreement to be given to all applicants for Water Quality Improvement Grants whose applications are then pending and to any person requesting such notice.

The provisions of this section shall not apply to funds reserved for matching grants to local purchase of development rights programs pursuant to § 10.1-2128.1, which shall be governed by § 3.1-18.10:01.

§ 10.1-2132. Nonpoint source pollution funding; conditions for approval.

A. The Department of Conservation and Recreation shall be the lead state agency for determining the appropriateness of any grant related to nonpoint source pollution to be made from the Fund to restore, protect and improve the quality of state waters.

B. The Director of the Department of Conservation and Recreation shall, subject to available funds and in coordination with the Director of the Department of Environmental Quality, direct the State Treasurer to make Water Quality Improvement Grants in accordance with the guidelines established pursuant to § 10.1-2129. The Director shall manage the allocation of grants from the Fund to ensure the full funding of executed grant agreements.

C. Grant funding may be made available to local governments, soil and water conservation districts, institutions of higher education and individuals who propose specific initiatives that are clearly demonstrated as likely to achieve reductions in nonpoint source pollution, including, but not limited to, excess nutrients and suspended solids, to improve the quality of state waters. Such projects may include, but are in no way limited to, the acquisition of conservation easements related to the protection of water quality and stream buffers; conservation planning and design assistance to develop nutrient management plans for agricultural operations; instructional education directly associated with the implementation or maintenance of a specific nonpoint source pollution reduction initiative; implementation of cost-effective nutrient reduction practices; and reimbursement to local governments for tax credits and other kinds of authorized local tax relief that provides incentives for water quality improvement. The Director shall give priority consideration to the distribution of grants from the Fund for the purposes of implementing tributary strategy plans, with a priority given to agricultural practices. In no single year shall more than 60 percent of the moneys be used for projects or practices exclusively within the Chesapeake Bay watershed.

D. *The Director of the Department of Conservation and Recreation shall manage the allocation of Water Quality Improvement Grants from the Fund, including Water Quality Improvement Grants from the Virginia Natural Resources Commitment Fund established under § 10.1-2128.1. However, funds of the Virginia Natural Resources Commitment Fund that are reserved for matching grants to local*

305 purchase of development rights programs pursuant to § 10.1-2128.1 shall be managed by the
306 Coordinator of the Office of Farmland Preservation of the Virginia Department of Agriculture and
307 Consumer Services.

308 § 10.1-2133. Annual report by State Comptroller.

309 The State Comptroller shall, by ~~January~~ October 1 of each year, certify to the chairmen of the House
310 Committee on Appropriations and the Senate Committee on Finance, the total amount of annual general
311 fund revenue collections in excess of the official estimate in the general appropriation act, the total
312 amount of the unreserved general fund balance whose reappropriation is not required in the general
313 appropriation act at the close of the previous fiscal year, and the total amount of *such other* funds that
314 are *reasonably anticipated* to be directed to the credit of the Virginia Water Quality Improvement Fund
315 under this article ~~unless otherwise provided in the general appropriation act, including any funds to be~~
316 *deposited into the Virginia Natural Resources Commitment Fund established under § 10.1-2128.1.*

317 § 10.1-2134. Annual report by Directors of the Departments of Environmental Quality and
318 Conservation and Recreation.

319 The Directors of the Departments of Environmental Quality and Conservation and Recreation shall,
320 by January 1 of each year, report to the Governor and the General Assembly the amounts and recipients
321 of grants made from the Virginia Water Quality Improvement Fund and the specific and measurable
322 pollution reduction achievements to state waters anticipated as a result of each grant award, together
323 with the amounts of continued funding required for the coming fiscal year under all fully executed grant
324 agreements. *The report shall provide a detailed progress update on the implementation of best*
325 *management practices to reduce nitrogen and phosphorous pollution from agricultural lands.* This
326 annual report may be incorporated as part of the report required by § 62.1-44.118.

327 § 58.1-638. Disposition of state sales and use tax revenue; localities' share; Game Protection Fund.

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

330 1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted
331 by the 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided
332 in this section, to the Transportation Trust Fund as defined in § 33.1-23.03:1. Of the funds paid to the
333 Transportation Trust Fund, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port
334 Fund as provided in this section; an aggregate of 2.4 percent shall be set aside as the Commonwealth
335 Airport Fund as provided in this section; and an aggregate of 14.5 percent in fiscal year 1998-1999 and
336 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass
337 Transit Fund as provided in this section. The Fund's share of such net revenue shall be computed as an
338 estimate of the net revenue to be received into the state treasury each month, and such estimated
339 payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall
340 be made to the Fund on the last day of each month.

341 2. There is hereby created in the Department of the Treasury a special nonreverting fund which shall
342 be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Port Fund.

343 a. The Commonwealth Port Fund shall be established on the books of the Comptroller and the funds
344 remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in
345 the Fund. Interest earned on such funds shall remain in the Fund and be credited to it. Funds may be
346 paid to any authority, locality or commission for the purposes hereinafter specified.

347 b. The amounts allocated pursuant to this section shall be allocated by the Commonwealth
348 Transportation Board to the Board of Commissioners of the Virginia Port Authority to be used to
349 support port capital needs and the preservation of existing capital needs of all ocean, river, or tributary
350 ports within the Commonwealth.

351 c. Commonwealth Port Fund revenue shall be allocated by the Board of Commissioners to the
352 Virginia Port Authority in order to foster and stimulate the flow of maritime commerce through the
353 ports of Virginia, including but not limited to the ports of Richmond, Hopewell and Alexandria.

354 3. There is hereby created in the Department of the Treasury a special nonreverting fund which shall
355 be part of the Transportation Trust Fund and which shall be known as the Commonwealth Airport Fund.
356 The Commonwealth Airport Fund shall be established on the books of the Comptroller and any funds
357 remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in
358 the Fund. Interest earned on the funds shall be credited to the Fund. The funds so allocated shall be
359 allocated by the Commonwealth Transportation Board to the Virginia Aviation Board. The funds shall
360 be allocated by the Virginia Aviation Board to any Virginia airport which is owned by the
361 Commonwealth, a governmental subdivision thereof, or a private entity to which the public has access
362 for the purposes enumerated in § 5.1-2.16, or is owned or leased by the Metropolitan Washington
363 Airports Authority (MWAA), as follows:

364 Any new funds in excess of \$12.1 million which are available for allocation by the Virginia Aviation
365 Board from the Commonwealth Transportation Fund, shall be allocated as follows: 60 percent to
366 MWAA, up to a maximum annual amount of \$2 million, and 40 percent to air carrier airports as

provided in subdivision A 3 a. Except for adjustments due to changes in enplaned passengers, no air carrier airport sponsor, excluding MWAA, shall receive less funds identified under subdivision A 3 a than it received in fiscal year 1994-1995.

Of the remaining amount:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

f. The remaining 25 percent shall be distributed for capital purposes on the basis of 95 percent of the nonfederal share for federal projects and 95 percent of the total costs for nonfederal projects. In the event that total capital funds available under this subdivision are insufficient to fund the complete list of

428 eligible projects, the funds shall be distributed to each transit property in the same proportion that such
429 capital expenditure bears to the statewide total of capital projects.

430 g. There is hereby created in the Department of the Treasury a special nonreverting fund known as
431 the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the
432 Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be
433 established on the books of the Comptroller and consist of such moneys as are appropriated to it by the
434 General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given,
435 bequeathed, granted, or otherwise made available to the Commonwealth Transit Capital Fund. Any funds
436 remaining in the Commonwealth Transit Capital Fund at the end of the biennium shall not revert to the
437 general fund, but shall remain in the Commonwealth Transit Capital Fund. Interest earned on funds
438 within the Commonwealth Transit Capital Fund shall remain in and be credited to the Commonwealth
439 Transit Capital Fund. Proceeds of the Commonwealth Transit Capital Fund may be paid to any political
440 subdivision, another public entity created by an act of the General Assembly, or a private entity as
441 defined in § 56-557 and for purposes as enumerated in subdivision 4c of § 33.1-269 or expended by the
442 Department of Rail and Public Transportation for the purposes specified in this subdivision. Revenues of
443 the Commonwealth Transit Capital Fund shall be used to support capital expenditures involving the
444 establishment, improvement, or expansion of public transportation services through specific projects
445 approved by the Commonwealth Transportation Board. Projects financed by the Commonwealth Transit
446 Capital Fund shall receive local, regional or private funding for at least 20 percent of the nonfederal
447 share of the total project cost.

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

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

454 b. The remaining funds shall be apportioned to reflect WMATA's allocation formulas by using the
455 related WMATA-allocated subsidies and relative shares of local transit subsidies. Capital costs shall
456 include 20 percent of annual local bus capital expenses. Hold harmless protections and obligations for
457 NVTC's jurisdictions agreed to by NVTC on November 5, 1998, shall remain in effect.

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

460 B. The sales and use tax revenue generated by a one percent sales and use tax shall be distributed
461 among the counties and cities of this Commonwealth in the manner provided in subsections C and D.

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

469 D. The net revenue so distributable among the counties and cities shall be apportioned and
470 distributed upon the basis as certified to the Comptroller by the Department of Education, of the number
471 of children in each county and city according to the most recent statewide census of school population
472 taken by the Department of Education pursuant to § 22.1-284, as adjusted in the manner hereinafter
473 provided. No special school population census, other than a statewide census, shall be used as the basis
474 of apportionment and distribution except that in any calendar year in which a statewide census is not
475 reported, the Department of Education shall adjust such school population figures by the same percent of
476 annual change in total population estimated for each locality by The Center for Public Service. The
477 revenue so apportionable and distributable is hereby appropriated to the several counties and cities for
478 maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the
479 operation of the public schools, which shall be considered as funds raised from local resources. In any
480 county, however, wherein is situated any incorporated town constituting a school division, the county
481 treasurer shall pay into the town treasury for maintenance, operation, capital outlays, debt and interest
482 payments, or other expenses incurred in the operation of the public schools, the proper proportionate
483 amount received by him in the ratio that the school population of such town bears to the school
484 population of the entire county. If the school population of any city or of any town constituting a school
485 division is increased by the annexation of territory since the last preceding school population census,
486 such increase shall, for the purposes of this section, be added to the school population of such city or
487 town as shown by the last such census and a proper reduction made in the school population of the
488 county or counties from which the annexed territory was acquired.

489 E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a

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

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

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

G. For the Commonwealth's fiscal year beginning July 1, 2008, of the remaining sales and use tax revenue, the Comptroller shall deposit into the Virginia Natural Resources Commitment Fund established pursuant to § 10.1-2128.1 an amount equivalent to 5 percent of the net revenue generated by a one percent sales and use tax. For the Commonwealth's fiscal year beginning July 1, 2009, the deposit into the Fund hereunder shall equal 7.5 percent of the net revenue generated by a one percent sales and use tax; for the Commonwealth's fiscal year beginning July 1, 2010, the deposit into the Fund shall equal 10 percent of the net revenue generated by a one percent sales and use tax; and for the month of July 2011 and for each month thereafter but ending for the month of June 2018 the deposit into the Fund shall equal 12.5 percent of the net revenue generated by a one percent sales and use tax for the month. The deposits to the Virginia Natural Resources Commitment Fund under this subsection shall be for the applicable percentage of the net revenue generated in each month from such one percent sales and use tax (and collected in the succeeding month). In no case whatsoever shall the deposit to the Fund exceed \$175 million for any fiscal year.

For the purposes of the Comptroller making such required deposits, the Tax Commissioner shall make a written certification to the Comptroller no later than the 25th of each month certifying the sales and use tax revenues generated in the preceding month that are to be deposited into the Virginia Natural Resources Commitment Fund. Within three calendar days of receiving such certification, the Comptroller shall make the required monthly deposit to the Virginia Natural Resources Commitment Fund.

GH. 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.

HI. 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.