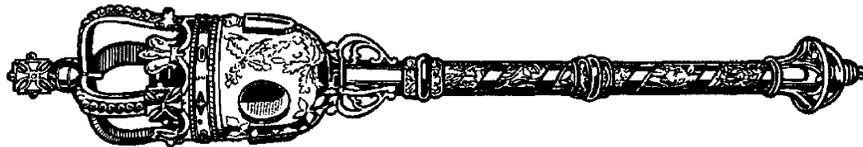


*Report of the  
House Appropriations  
Subcommittee*

*on*

*Transportation*



*House Bill 29*

*&*

*House Bill 30*

*February 19, 2012*

# REPORT OF THE SUBCOMMITTEE

## on

# TRANSPORTATION

Mr. Chairman and Members of the Committee:

Again this year the notion of supporting transportation, a core service of government, with general fund revenues has proven contentious. I am pleased to report that the committee amendments retain the phased-transfer of an additional  $\frac{1}{4}$  percent of the unencumbered general sales and tax revenues to the Highway Maintenance and Operating Fund pursuant to the provisions of House Bill 1248. While this will not solve all of our transportation problems, our strong commitment to investments in core infrastructure across the Commonwealth is necessary to our continued economic health and growth.

Mr. Chairman, speaking first to the amendments to the “caboose” bill, I am pleased to report that stronger than assumed economic growth in fiscal year 2011 will result in a deposit of \$67.2 million from last year’s general fund surplus for transportation. \$57.3 million of this amount will be deposited into the Virginia Transportation Infrastructure Bank Fund to help leverage local and state funds for “P3” projects and the remaining \$9.9 million will be transferred to the Department of Rail and Public Transportation to supplement funding used to support the operations of transit systems across the Commonwealth. Over the past decade, transit has become an increasingly important mobility option, especially in our most congested regions.

Moving next to House Bill 30, the budget for the upcoming biennium, we will appropriate an additional \$705.9 million of Commonwealth Transportation Fund revenues over the biennium. These increases reflect the improvement we are beginning to see in our economy. The revised Commonwealth Transportation Fund forecast assumes growth of 5% in fiscal year 2013 and 3.4% in fiscal year 2014.

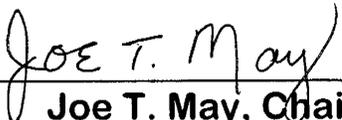
While this growth is modest, it represents a vast improvement over prior years, and the increase in titling tax revenues show the automotive market has emerged from its steep decline.

Also included in the amendments are two small but ongoing increases in funding to support our roadway maintenance needs. The first is \$5.8 million in fiscal year 2013 and \$5.6 million in fiscal year 2014 pursuant to legislation increasing overweight vehicle permit fees to ensure these vehicles cover some of the extra maintenance needs caused by these heavy loads on our pavements. Also included is \$2.3 million each year from the transfer of revenues generated in the waste tire fund.

Finally Mr. Chairman, and of personal interest to me, the amendments reflect the passage of House Bill 813, which recognizes commercial space flight is emerging as a small but growing component of our economy and requires support to reach its full potential. We have a priceless resource at Wallops Island and it is my hope that by providing sufficient support for the Virginia Commercial Space Flight Authority will provide the necessary ongoing funding stream to ensure its success.

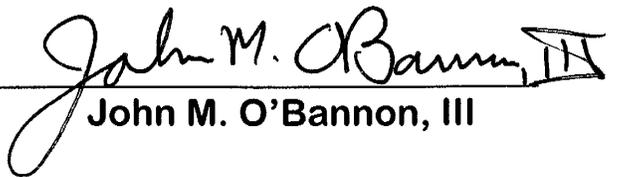
The details of the Subcommittee's report are contained in the attachments. Committee staff will review the report and the attached listing of our recommendations at this time, and I hope it will be the Committee's pleasure to adopt the report.

Respectfully Submitted by the House Appropriations Subcommittee  
on Transportation:

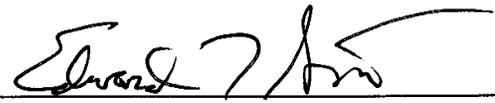
  
Joe T. May, Chairman

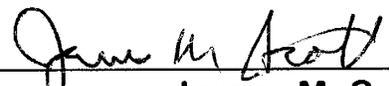
  
Beverly J. Sherwood

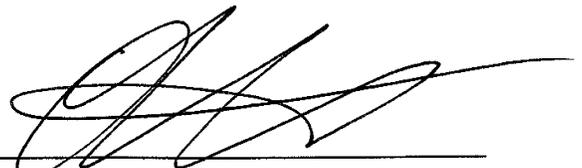
  
L. Scott Lingamfelter

  
John M. O'Bannon, III

  
Christopher K. Peace

  
Edward T. Scott

  
James M. Scott  
Object to provisions  
of HB 1248 relating  
to the transfer of  
general funds to transportation

  
Algie T. Howell, Jr.

## Budget Amendment Recommendations

<u>Amendment</u>	<u>House Bill 29</u> <u>FY 2012</u>	<u>2012-14 BIENNIAL TOTAL</u>		
		<u>GF</u>	<u>NGF</u>	<u>FTE</u>

**Transportation**

**HB 29 (2010-12 Budget)**

<b>Secretary of Transportation</b>	
Mandatory Project Labor Agreements	Language
<b>Department of Rail and Public Transportation</b>	
Hazardous Materials Dwell Times	Language
<b>Department of Transportation</b>	
Technical Correction	Language
Use of FY 2011 Surplus for Transportation	Language

**HB 30 (2012-14 Budget)**

<b>Secretary of Transportation</b>				
Mandatory Project Labor Agreements		Language		
Review of NOVA MPO Structure		Language		
Review of Devolution Options		Language		
Transportation Accountability Comm SWaM		Language		
VCSFA Funding		Language		
<b>Department of Motor Vehicles</b>				
Pilot Project on Driving Simulators		Language		
<b>Department of Rail and Public Transportation</b>				
Transit New Starts		Language		
<b>Department of Transportation</b>				
Long Distance Tolling Planning		Language		
HB 806: Overweight Permits			9,348,036	
Recover Costs of Legal Representation		Language		
Adjust Sales Tax to Remove Food Portion			(16,060,000)	
<b>TOTAL:</b>		-	(6,711,964)	-

*Amendment to House Bill 29, as Introduced*

Transportation Subcommittee

Item 436 #1h

**Transportation**

Secretary Of Transportation

Language

**Language:**

Page 147, after line 2, insert:

"K.1. Except as required by federal law, when engaged in procuring products or services or letting contracts for construction, maintenance, or operation of any transportation facility paid for in whole or in part by state funds, or when overseeing or administering such procurement, construction, maintenance, or operation, neither the Commonwealth Transportation Board, any state transportation agency, nor any construction manager acting on behalf of the state agency shall, in its bid specifications, project agreements, or other controlling documents require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or related public works projects; or provide an incentive in their scoring favoring entities entering into such agreements or otherwise discriminate against bidders, offerors, contractors, subcontractors, or operators for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or other related public works projects. Nor shall contractors or subcontractors be prohibited from voluntarily entering into such agreements.

2. If an awarding authority, a recipient of grants or financial assistance, a party to a cooperative agreement, or a construction manager acting on behalf of any of them performs in a manner contrary to the provisions of paragraph 1, the state agency awarding the contract, grant, or assistance shall be entitled to injunctive relief to prevent any violation of this section.

3. Any interested party, which shall include a bidder, offeror, contractor, subcontractor, or operator, shall have standing to challenge any bid specification, project agreement, neutrality agreement, controlling document, grant, or cooperative agreement that violates the provisions of this section. Furthermore, such interested party shall be entitled to injunctive relief to prevent any violation of this section.

4. These provisions shall not apply to any public-private agreement for any construction or infrastructure project in which the private body, as a condition of its investment or partnership with the state agency, requires that the private body have the right to control its labor relations policy and perform all work associated with

*Amendment to House Bill 29, as Introduced*

such investment or partnership in compliance with all collective bargaining agreements to which the private part is a signatory and is thus legally bound with its own employees and the employees of its contractors and subcontractors in any manner permitted by the National Labor Relations Act, 29 U.S.C. § 151 et seq. or the Railway Labor Act, 45 U.S.C. § 151 et seq.; prohibit an employer or any other person covered by the National Labor Relations Act or the Railway Labor Act, 45 U.S.C. § 151 et seq.; from entering into agreements or engaging in any other activity protected by law; or be interpreted to interfere with the labor relations of persons covered by the National Labor Relations Act or the Railway Labor Act."

**Explanation:**

(This amendment states that no project may be undertaken by the Commonwealth Transportation Board or any state funds be expended in support of a project if such project or projects are subject to mandatory project labor agreements. Companion legislation which was passed by the House, House Bill 33, would codify these requirements. It is the intent of the General Assembly that this item will be set out during enrolling.)

---

Transportation Subcommittee

Item 448 #1h

**Transportation**

Department Of Rail And Public  
Transportation

Language

**Language:**

Page 147, after line 14, insert:

"G.1. Prior to July 1, 2011, the director, Department of Rail and Public transportation, with the approval of CSX Transportation, shall initiate infrastructure improvement projects which *promote safety or* reduce the average dwell times of hazardous material shipments subject to regulation under Title 49 CFR Part 174 et seq. within rail yards, depots, sidings, and other intermediate terminals or facilities and properties located in the City of Fredericksburg ~~to not longer than 24 hours~~. These improvements may include, but are not limited to, those that (i) increase capacity at existing storage facilities terminating near Fredericksburg; (ii) increase the physical distance between commodity storage areas and residential communities; and (iii) transfer intermediate storage of commodities to locations closer to terminus of the shipment.

2. Out of the funds available for Rail Industrial Access pursuant to § 33.1-22.1:1,

*Amendment to House Bill 29, as Introduced*

Code of Virginia, up to \$450,000 in the first year and up to \$450,000 in the second year is hereby authorized for associated infrastructure improvements in the City of Fredericksburg ~~and~~ or Spotsylvania County. Such funds may be awarded to CSX Transportation or other entities or political subdivisions identified by the Department as having responsibility for implementing the associated infrastructure improvement. In the allocation of funds for this project by the Commonwealth Transportation Board, the requirements of § 33.1-22.1:1, Code of Virginia, with the exception of § 33.1-22.1:1 F., are waived.

3. Not later than September 1, 2011, and December 31, 2011, the director, Department of Rail and Public Transportation, shall report to the Chairmen of the Senate Finance and House Appropriations Committees on the progress in implementing these improvements. The report shall include specific dates by which infrastructure improvements or other means of reducing average dwell times of hazardous material shipments are anticipated to be implemented or placed in service. In addition, this report shall also assess the adequacy of training provided by CSX Transportation to local first responders and regional hazmat response teams and establish a plan for enhanced training on addressing railroad and hazmat incidents including the development of a comprehensive emergency response plan.

4. In implementing this report, the Director, Department of Rail and Public Transportation, shall solicit the input and involvement of the affected jurisdictions. All agencies of the Commonwealth, upon request, shall provide necessary technical expertise."

**Explanation:**

(This amendment modifies language related to average dwell times of hazardous material shipments related to certain infrastructure projects and adds language that clarifies the goal of the projects include promoting safety. The current language is too narrowly worded to facilitate a grant agreement that would fund the projects agreed to by the various parties. Because this item is not set out in House Bill 29, it is the intent of the General Assembly that the proposed amendments to the language would occur during enrollment of House Bill 30 as adopted.)

---

Transportation Subcommittee

Item 452 #1h

**Transportation**

Department Of Transportation

Language

*Amendment to House Bill 29, as Introduced*

**Language:**

Page 149, line 53, after "Bank." insert:

"\$9,900,000 of the general fund amounts deposited into the Virginia Transportation Infrastructure Bank in the second year shall be transferred to Item 447 for statewide transit formula assistance."

**Explanation:**

(This amendment directs that \$9.9 million of the fiscal year 2011 general fund surplus amounts dedicated to transportation be used to support the Mass Transit Fund. The amount represents 14.7% of the general fund amounts, the share of funds which mass transit receives from the transportation trust fund.)

---

Transportation Subcommittee

Item 455 #1h

**Transportation**

Department Of Transportation

Language

**Language:**

Page 151, line 45, after "\$1,500,000 the first year" strike the remainder of the line.

**Explanation:**

(This amendment makes a technical correction to ensure that the language governing the second year amount provided for this program in this paragraph accurately reflects the amounts appropriated for it.)

---

*Amendment to House Bill 30, as Introduced*

Transportation Subcommittee

Item 430 #1h

**Transportation**

Secretary Of Transportation

Language

**Language:**

Page 331, after line 23, insert:

"L.1. Except as required by federal law, when engaged in procuring products or services or letting contracts for construction, maintenance, or operation of any transportation facility paid for in whole or in part by state funds, or when overseeing or administering such procurement, construction, maintenance, or operation, neither the Commonwealth Transportation Board, any state transportation agency, nor any construction manager acting on behalf of the state agency shall, in its bid specifications, project agreements, or other controlling documents require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or related public works projects; or provide an incentive in their scoring favoring entities entering into such agreements or otherwise discriminate against bidders, offerors, contractors, subcontractors, or operators for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or other related public works projects. Nor shall contractors or subcontractors be prohibited from voluntarily entering into such agreements.

2. If an awarding authority, a recipient of grants or financial assistance, a party to a cooperative agreement, or a construction manager acting on behalf of any of them performs in a manner contrary to the provisions of paragraph 1, the state agency awarding the contract, grant, or assistance shall be entitled to injunctive relief to prevent any violation of this section.

3. Any interested party, which shall include a bidder, offeror, contractor, subcontractor, or operator, shall have standing to challenge any bid specification, project agreement, neutrality agreement, controlling document, grant, or cooperative agreement that violates the provisions of this section. Furthermore, such interested party shall be entitled to injunctive relief to prevent any violation of this section .

4. These provisions shall not apply to any public-private agreement for any construction or infrastructure project in which the private body, as a condition of its investment or partnership with the state agency, requires that the private body have

*Amendment to House Bill 30, as Introduced*

the right to control its labor relations policy and perform all work associated with such investment or partnership in compliance with all collective bargaining agreements to which the private part is a signatory and is thus legally bound with its own employees and the employees of its contractors and subcontractors in any manner permitted by the National Labor Relations Act, 29 U.S.C. § 151 et seq. or the Railway Labor Act, 45 U.S.C. § 151 et seq.; prohibit an employer or any other person covered by the National Labor Relations Act or the Railway Labor Act, 45 U.S.C. § 151 et seq.; from entering into agreements or engaging in any other activity protected by law; or be interpreted to interfere with the labor relations of persons covered by the National Labor Relations Act or the Railway Labor Act."

**Explanation:**

(This amendment states that no project may be undertaken by the Commonwealth Transportation Board or any state funds be expended in support of a project if such project or projects are subject to mandatory project labor agreements. Companion legislation adopted by the House, House Bill 33, would codify these requirements.)

---

Transportation Subcommittee

Item 430 #2h

**Transportation**

Secretary Of Transportation

Language

**Language:**

Page 331, after line 23, insert:

"L. The Secretary of Transportation, in consultation the Virginia Department of Transportation, the Department of Rail and Public Transportation, representatives from the Federal Highway Administration, representatives of local governments comprising the proposed metropolitan planning organization, and any and all other stakeholders deemed necessary and appropriate by the Secretary, shall establish a workgroup to examine the desirability and feasibility of establishing a Northern Virginia metropolitan planning organization. The findings of such workgroup shall be presented to the House Appropriations and Senate Finance Committees at their regularly scheduled meeting in October 2012."

**Explanation:**

(This amendment directs the Secretary of Transportation to convene a workgroup prior to the 2013 Session to examine the feasibility of creating a separate Northern Virginia MPO. The Secretary would present the findings of the workgroup to the

*Amendment to House Bill 30, as Introduced*

House Appropriations and Senate Finance Committees at their respective October 2012 meetings.)

---

Transportation Subcommittee

Item 430 #3h

**Transportation**

Secretary Of Transportation

Language

**Language:**

Page 331, after line 23, insert:

"L. The Secretary of Transportation, in consultation with the Virginia Department of Transportation, representatives from local government, the Virginia Association of Counties, the Virginia Municipal League, and any and all other stakeholders deemed necessary and appropriate by the Secretary, shall establish a workgroup to examine the desirability and feasibility of transferring responsibility for the maintenance, operations and construction, or any subset thereof, of secondary roads in counties with a population greater than 200,000 as of the census of 2010 to those counties. The workgroup shall consider ways in which the additional costs which would be incurred by such localities would be borne, the impact on funding available for secondary roads that would remain under control by VDOT, and the potential to shift personnel, equipment and facilities to such localities as part of devolution. As part of this examination, the Secretary shall consult with the counties that have withdrawn from the secondary road system as well as cities that already maintain their roadways. The findings of such workgroup shall be presented to the House Appropriations and Senate Finance Committees at their regularly scheduled meeting in October 2012."

**Explanation:**

(This amendment directs the Secretary of Transportation to convene a workgroup prior to the 2013 Session to examine and review potential options for the devolution of secondary roads in large jurisdictions. The Secretary would present the findings of the workgroup to the House Appropriations and Senate Finance Committees at their respective October 2012 meetings.)

---

Transportation Subcommittee

Item 430 #4h

**Transportation**

Secretary Of Transportation

Language

*Amendment to House Bill 30, as Introduced*

**Language:**

Page 331, after line 23, insert:

"L. The Secretary of Transportation and upon request for assistance, staff from the Virginia Department of Transportation, shall collaborate with the Joint Commission on Transportation Accountability to examine ways to improve the efficiency and effectiveness of the implementation of the small, women, and minority owned business program at the Department of Transportation. If, following such a review, the Commission has recommendations regarding improvements to such program, the findings shall be presented to the House Appropriations and Senate Finance Committees at their regularly scheduled meeting in October 2012."

**Explanation:**

(This amendment directs the Secretary of Transportation to work with the Transportation Accountability Commission to review the effectiveness of VDOT's SWaM program.)

---

Transportation Subcommittee

Item 430 #5h

**Transportation**

Secretary Of Transportation

Language

**Language:**

Page 331, after line 23, insert:

"L. The Secretary of Transportation, with the approval of the Commonwealth Transportation Board, is hereby authorized to allocate up to \$15,000,000 in the first year and \$15,000,000 in the second year from Commonwealth Transportation Funds to support the Virginia Commercial Space Flight Authority."

**Explanation:**

(This amendment authorizes the use of up to \$15.0 million each year from the Transportation Trust Fund for the Virginia Commercial Space Flight Authority. House Bill 813, adopted by the House during the 2012 Session authorizes such funding as well.)

---

Transportation Subcommittee

Item 435 #1h

**Transportation**

*Amendment to House Bill 30, as Introduced*

Department Of Motor Vehicles

Language

**Language:**

Page 334, after line 4, insert:

"H. Out of the amounts in this item, \$200,000 the first year is hereby authorized to be utilized for a pilot project with the University of Virginia to evaluate virtual reality driving simulators as a tool for assessment of driving competency."

**Explanation:**

(This amendment would authorize a pilot project for the testing of driving simulators through a joint project of the University of Virginia and the Department of Motor Vehicles.)

---

Transportation Subcommittee

Item 441 #1h

**Transportation**

Department Of Rail And Public  
Transportation

Language

**Language:**

Page 336, line 34, after "Virginia." insert:

"No formula assistance funding included in this item shall be used to support any new transit system or route at a level higher than such project would be eligible for under the allocation formula beyond the first two years of its operation."

**Explanation:**

(This amendment limits to two years the Department's ability to fund certain new or expanded routes at higher than the formula-driven rate to ensure that funds are equitably distributed among the transit systems and each route is supported by the same level of local support.)

---

Transportation Subcommittee

Item 445 #1h

**Transportation**

Department Of Transportation

Language

**Language:**

Page 338, after line 24, insert:

"D. Included in the amount for ground transportation planning and research is \$400,000 the first year from federal funds provided pursuant to Title 23, U.S.C. §505

*Amendment to House Bill 30, as Introduced*

to investigate the efficacy and utility of distance-based tolling, using the Dulles Greenway and the Dulles Toll Road for such investigation."

**Explanation:**

(This amendment directs the use of up to \$400,000 in federal planning and research funds for the evaluation of distance-based tolling.)

---

Transportation Subcommittee

Item 447 #1h

**Transportation**

**FY 12-13**

**FY 13-14**

Department Of Transportation

\$4,796,940

\$4,551,096 NGF

**Language:**

Page 339, line 7, strike "\$1,452,542,951" and insert "\$1,457,339,891".

Page 339, line 7, strike "\$1,496,703,677" and insert "\$1,501,254,773".

**Explanation:**

(This amendment appropriates the additional revenues to be generated for the highway maintenance and operating fund from the provision of a uniform fee structure for permits on overweight vehicles pursuant to House Bill 806, 2012 Session of the General Assembly.)

---

Transportation Subcommittee

Item 449 #1h

**Transportation**

Department Of Transportation

Language

**Language:**

Page 340, after line 30, insert:

"E. Out of the amount otherwise to be allocated to Arlington County for road maintenance pursuant to the provisions of §§ 33.1-23.1(A) and 33.1-23.5:1, \$100,000 shall be transferred to Item 446."

**Explanation:**

(This amendment transfers \$100,000 of the amounts that would be allocated to Arlington County for roadway maintenance to the highway construction funding item. These funds are being transferred to reimburse the Commonwealth for legal fees it expended defending a former Secretary of Transportation who was sued in his personal capacity by Arlington County during his term of office and who was not

*Amendment to House Bill 30, as Introduced*

dismissed from the case by Arlington even after his term of office expired. It is the belief of the Commonwealth that it is inappropriate for Arlington County to sue the former Secretary in his personal capacity and that this error was compounded when it failed to dismiss him from the suit when he left office.)

---

Transportation Subcommittee

Item 451 #1h

**Transportation**

Department Of Transportation

**FY 12-13**

(\$7,870,000)

**FY 13-14**

(\$8,190,000) NGF

**Language:**

Page 343, line 47, strike "\$217,945,846" and insert "\$210,075,846".

Page 343, line 47, strike "\$224,330,877" and insert "\$216,140,877".

**Explanation:**

(This amendment reduces by \$7.9 million in fiscal year 2013 and \$8.2 million in fiscal year 2014 the revenues migrated to the highway maintenance and operating fund from the provisions of House Bill 1248 to reflect the language included in the legislation as adopted by the House. The difference reflects the fact that the unencumbered general fund portion of the general sales and use tax does not apply to food sales.)

---