

2009 Virginia General Assembly Session Final Legislative Report – March 3, 2009

End of Session: Budget Overview

The session whose focus from the beginning was crafting a budget that addresses a revenue shortfall that had grown to a whopping \$3.7 billion over the biennium, came to a rather anti-climatic conclusion when House and Senate budget negotiators came to an agreement shortly after midnight on Saturday. The debate on the budget was limited in the House, and non-existent in the Senate, with each chamber overwhelmingly embracing the budget conference report by a 90-8 margin in the House, and a 35-5 margin in the Senate. Delegate Albert Pollard (D-Lancaster County) was the lone Democrat to oppose the budget, with the rest of the negative votes coming from Republicans who argued that the use of approximately \$1.5 billion in federal stimulus money to help balance the budget served to simply postpone difficult decision that will need to be made next year or the year after. The vast majority who supported the budget said that the use of the federal stimulus money, while not ideal, was necessary to ensure that cuts to core services of government while deep (with most state agencies cutting between 5% to 7%), were not draconian. In arguing about the positive impact the federal stimulus package will have on Virginia's budget, Governor Tim Kaine has said that the federal package has averted massive layoffs that will end up saving approximately 7,000 state employees their jobs.

The lion's share of the federal stimulus money, over \$960 million, will be utilized for Medicaid related expenditures. \$365 million in stimulus money will go to substitute for declining basic-aid payments in K-12 education, while higher education will receive approximately \$127 million in federal funds aimed at mitigating tuition increases at state colleges and universities (this increases are expected to be limited to between 2% to 5%). The stimulus money also helped restore recommended cuts to a variety of constitutional officers, including sheriffs and local police departments (totaling \$24 million). The budget also leaves an un-appropriated revenue reserve of \$160 million, which could offset further reductions in general fund revenues over the remainder of the biennium.

The budget conferees chose to avoid addressing some of the more controversial topics embedded in the budget, including Governor Kaine's proposal to release some nonviolent offenders 90 days early from prison (the conferees agreed to study that proposal), as well an initiative that would have placed a cap on the state's funding share of non-instructional staff for K-12 public education (budget language directs the State Board of Education to review the issue, presumably setting the stage for action next year).

As expected, the budget reflected nothing in terms of additional funding for infrastructure projects throughout the Commonwealth. The only thing worthy of noting is language imbedded in the budget which requires the Secretary of Transportation to provide within seven days after the enactment of the budget (which, depending on one's reading of the budget language, could be as soon as this coming Saturday) a detailed and prioritized list of transportation projects that would be ready to be advertised if funding were to become available through the federal economic stimulus package. There will be an estimated \$800 million in federal stimulus money designated for highway and transit projects throughout the Commonwealth, although the Secretary and the VDOT Commissioner have told members of the General Assembly that it would be irresponsible to publicize such a list prior to the establishment of the final criteria from the federal government on the appropriate uses for such revenues. The budget language obviously reflects a frustration among House and Senate members with the Secretary and Commissioner's reasons for not sharing a list of eligible projects with the General Assembly. This is an issue that may figure prominently in discussions among the legislative and executive branch over the next few months. Governor Kaine has stated his intentions to seek the input of the General Assembly related to the expenditure of the federal stimulus money (particularly the money earmarked for transportation infrastructure). This budget language illustrates that the General Assembly appears prepared to

exert its influence over the process, regardless of the sentiments expressed by the Kaine administration.

Legislation of Interest

The following are several pieces of legislation that passed the General Assembly:

Parking Restrictions

HB 1694, sponsored by Delegate David Albo (R-Fairfax County), allows the counties of Fairfax and Prince William, as well as the towns of Clifton, Herndon, and Vienna to restrict the parking of trucks in certain residential areas. Trucks that are more than 20 feet in length and any vehicle carrying commercial freight in plain view would be restricted from parking in residential areas in the above localities. The bill has exceptions for commercial vehicles used by a public service company, cable television service, or propane gas service. The bill had four “no” votes in the House, and was supported unanimously in the Senate.

Restrictions on Text Messaging

HB 1876, sponsored by Delegate John Cosgrove (R-Chesapeake), makes sending and reading text messages while driving a secondary offense punishable by a \$20 fine. The bill provides exemptions for the use of GPS systems, as well as the use of wireless devices to report an emergency. The measure passed both the House and the Senate with strong bipartisan support.

George Washington Toll Road Authority

HB 2099, sponsored by Delegate Bobby Orrock (R-Caroline County), creates the George Washington Toll Road Authority, which encompasses Fredericksburg and Spotsylvania County. The Authority’s purpose is ostensibly to alleviate congestion and promote safety within the Route 3 corridor. The Authority has wide latitude to look at a variety of options (including the use of tolling) within the corridor in an effort to reduce congestion and expand capacity. The bill was supported unanimously by both the House and the Senate.

Bridge Replacement

SB 1550, sponsored by Senator Harry Blevins (R-Chesapeake), allows the City of Chesapeake to provide for the emergency replacement of the Jordan Bridge through a contract with a private construction group that will build, maintain, and operate the tolling facility. The bill allows the City to contract with the private construction group (headed by former Commissioner Phil Shucet) without going through either the Public Procurement Act or the PPTA statute. The bill won unanimous support in both the Senate and House. Since there is a, “emergency” clause attached to the bill, the legislation will become effective immediately upon the signature of the Governor (most bills do not contain an emergency clause, and therefore become effective July 1st).

Transportation Accountability Commission

In a somewhat interesting turn of events, the Transportation Accountability Commission (TAC) met on the final day of the General Assembly Session to grill Secretary of Transportation Pierce Homer on the \$700 million worth of federal stimulus revenues earmarked for highway infrastructure in the Commonwealth (there is an additional \$100 million available for mass transit, bringing the total amount of revenues for transportation related infrastructure to \$800 million). As has been the case throughout the General Assembly session, the Secretary did not provide any specifics regarding projects that would be eligible for the stimulus funds. Secretary Homer said that the federal dollars would be focused on the following: 1) Repair or replacement of bridges; 2) Resurfacing of pavement, 3) Projects in areas of high unemployment, and 4) Projects that obtain

approval of MPO's (apparently, of the \$700 million, at least \$210 million will go toward MPO related projects, with the remaining \$490 million subject to allocation by the CTB) Secretary Homer mentioned that there is a requirement that a portion of the federal revenues from the stimulus be obligated to projects by June 19. Among the questions that are yet to be answered is whether the transportation funding formula will have any impact as to how these funds might be programmed. There appear to be a number of questions that will still need to be addressed over the next several weeks and months, and these question will likely go well beyond which projects will be funded using the federal stimulus money.

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Composite view with notes

Bills	Committee	Last action	Date
HB 1579 - Oder - Transportation funding, etc; certain revenues attributable to economic growth in Hampton Roads, etc.	(H) Committee on Appropriations (S) Committee on Finance	(S) Failed to report (defeated) in Finance (7-Y 9-N)	02/18/09
HB 1580 - Oder - Hampton Roads Transportation Authority; abolished, disposition of revenues, etc.	(H) Committee on Transportation (S) Committee on Transportation	(H) VOTE: --- ADOPTION (96-Y 0-N)	02/26/09
HB 1628 - Cole - Contractor performance bonds; amount for locally administered transportation improvement projects.	(H) Committee on Transportation (S) Committee on Transportation	(S) Signed by President	02/28/09
HB 1633 - Saxman - Offshore drilling; apportions royalties that State receives to certain funds and programs.	(H) Committee on Appropriations (S) Committee on Finance	(S) Passed by indefinitely in Finance (9-Y 5-N 2-A)	02/17/09
HB 1645 - Marshall, D.W. - Highway system construction, urban; not more than 1/3 of funds to be used to reimburse locality.	(H) Committee on Appropriations (S) Committee on Transportation	(G) Approved by Governor-Chapter 52 (effective 7/1/09)	02/25/09
HB 1648 - Ware, R.L. - Virginia byways; requires every agency, etc. to consider impact of its' plans on roads designated.	(H) Committee on Transportation (S) Committee on Transportation	(S) Failed to report (defeated) in Transportation (3-Y 9-N)	02/19/09
HB 1659 - Howell, A.T. - Wireless telecommunications devices; prohibits use of while driving except in an emergency.	(H) Committee on Militia, Police and Public Safety	(H) Left in Militia, Police and Public Safety	02/10/09
HB 1661 - Scott, J.M. - Motor fuels tax; converts rates to percentage that shall be calculated by DMV Commissioner.	(H) Committee on Finance	(H) Left in Finance	02/10/09
HB 1677 - Orrock - Contractor performance bonds; amount for locally administered transportation improvement projects.	(H) Committee on Transportation	(H) Incorporated by Transportation (HB1628-Cole)	01/29/09
HB 1694 - Albo - Parking; allows certain	(H) Committee on	(S) Conference report agreed to by	02/28/09

counties and towns to prohibit parking of certain vehicles on streets.	Transportation <hr/> (S) Committee on Transportation	Senate (38-Y 0-N)	
HB 1710 - Oder - Contracts; certain indemnification provisions in construction contracts declared void.	(H) Committee on General Laws	(H) Left in General Laws	02/10/09
HB 1723 - Albo - Highway Maintenance and Operating Fund; provides a formula for allocating proceeds.	(H) Committee on Appropriations	(H) Left in Appropriations	02/10/09
HB 1728 - Cole - Road impact fees; allows localities to reduce or exempt fee for commercial development.	(H) Committee on Counties, Cities and Towns	(H) Left in Counties, Cities and Towns	02/10/09
HB 1752 - Carrico - Weight limits for gravel trucks, coal haulers, etc.; extends sunset provision thereon.	(H) Committee on Transportation <hr/> (S) Committee on Transportation	(H) VOTE: --- ADOPTION (96-Y 0-N)	02/26/09
HB 1759 - Marshall, R.G. - Transportation Capital Projects Bond Act of 2009; created.	(H) Committee on Appropriations	(H) Left in Appropriations	02/10/09
HB 1769 - Dance - Mobile telephone and other wireless electronic devices; use of hands-free accessory while driving.	(H) Committee on Militia, Police and Public Safety	(H) Left in Militia, Police and Public Safety	02/10/09
HB 1839 - Albo - Commercial real estate tax; used for local projects and construct new roads.	(H) Committee on Finance	(H) Left in Finance	02/10/09
HB 1848 - Lingamfelter - Transportation; Auditor of Public Accounts to administer operational performance audit.	(H) Committee on Appropriations	(H) Tabled in Appropriations	02/02/09
HB 1993 - Bulova - Highway maintenance funds; requirements for Commonwealth Transportation Board in allocating.	(H) Committee on Appropriations	(H) Left in Appropriations	02/10/09
HB 1995 - Bulova - Northern Virginia Transportation Authority; adds Cities of Alexandria, etc., to use % of revenues.	(H) Committee on Transportation <hr/> (S) Committee on Local Government	(S) Signed by President	02/28/09
HB 2019 - Rust - Transportation corridors; Transportation Board to establish connection with Transportation Plan.	(H) Committee on Transportation <hr/> (S) Committee on Transportation	(H) VOTE: --- ADOPTION (96-Y 0-N)	02/26/09
HB 2020 - Rust - Highway maintenance funds; provides method Transportation Board is to allocate additional funds.	(H) Committee on Transportation	(H) Tabled in Transportation	01/29/09
HB 2066 - Hamilton - Public-Private Transportation Act of 1995; establishes	(H) Committee on Transportation	(S) Left in Transportation	02/23/09

provisions that apply.	(S) Committee on Transportation		
HB 2073 - Scott, E.T. - Weight limit extension; vehicles using an auxiliary power unit or idle reduction technology.	(H) Committee on Transportation (S) Committee on Transportation	(G) Approved by Governor-Chapter 92 (effective 7/1/09)	02/25/09
HB 2075 - Scott, E.T. - Overweight/oversize vehicle permits; violation of terms and conditions thereof does not invalidate.	(H) Committee on Transportation (S) Committee on Transportation	(S) Signed by President	02/28/09
HB 2076 - Oder - Tolls; prohibits imposition & collection of tolls for use of portions of I-64 & I-664.	(H) Committee on Transportation	(H) Left in Transportation	02/10/09
HB 2079 - Oder - Hampton Roads Bridge-Tunnel; VDOT to accept unsolicited proposals to add capacity thereto.	(H) Committee on Transportation (S) Committee on Transportation	(S) Left in Transportation	02/28/09
HB 2099 - Orrock - George Washington Toll Road Authority; created, encompasses City of Fredericksburg, etc.	(H) Committee on Counties, Cities and Towns (S) Committee on Finance	(H) VOTE: --- ADOPTION (88-Y 0-N)	02/26/09
HB 2117 - Nichols - HOT lanes; prohibits on any portion of I-95 between Potomac River and City of Fredericksburg.	(H) Committee on Transportation	(H) Tabled in Transportation (14-Y 8-N)	01/29/09
HB 2118 - Nichols - Secondary highway system construction allocations; allocates among counties on basis of population.	(H) Committee on Appropriations	(H) Left in Appropriations	02/10/09
HB 2121 - Nichols - Public Procurement Act; verification of legal presence of contractors for employment.	(H) Committee for Courts of Justice	(H) Left in Courts of Justice	02/10/09
HB 2130 - Miller, J.H. - Supplemental Highway Construction Fund; established.	(H) Committee on Appropriations	(H) Left in Appropriations	02/10/09
HB 2185 - Phillips - Weight limits for gravel trucks; extends sunset provision on.	(H) Committee on Transportation	(H) Incorporated by Transportation (HB1752-Carrico)	01/29/09
HB 2194 - Watts - Motor fuels tax; rate increase used for transportation purposes.	(H) Committee on Finance	(H) Left in Finance	02/10/09
HB 2202 - Vanderhye - Greenhouse gas emissions; State Air Pollution Control Board to adopt regulation requiring reporting.	(H) Committee on Agriculture, Chesapeake and Natural Resources	(H) Tabled in Agriculture, Chesapeake and Natural Resources	02/04/09
HB 2206 - Frederick - Budget Bill;	(H) Committee on	(H) Left in Appropriations	02/10/09

Governor to include funding for transportation in biennium equal to at least 10%.	Appropriations		
HB 2230 - Marsden - Highway construction allocations; Transportation Board allocate projects in Northern Virginia, etc.	(H) Committee on Appropriations	(H) Left in Appropriations	02/10/09
HB 2231 - Marsden - Parking; adds pickup and panel trucks to list of vehicles that Fairfax, etc. may prohibit therefrom.	(H) Committee on Transportation	(H) Tabled in Transportation (9-Y 6-N)	02/03/09
HB 2232 - Marsden - Crashes on HOT lanes under construction; if no apparent bodily injuries, drivers must move vehicles.	(H) Committee on Transportation	(H) VOTE: --- ENGROSSMENT (42-Y 52-N)	02/06/09
HB 2319 - Marshall, R.G. - Overload and overweight permits; revises fees.	(H) Committee on Transportation	(H) Passed by in Transportation with letter	02/05/09
HB 2380 - Scott, J.M. - Wireless telecommunications devices; prohibits use of text messaging while driving certain vehicles.	(H) Committee on Transportation	(H) Incorporated by Transportation (HB1876-Cosgrove)	02/05/09
HB 2425 - May - Highways, primary and secondary; transfer roads, bridges, etc., therefrom to local system of roads.	(H) Committee on Transportation <hr/> (S) Committee on Transportation	(S) Signed by President	02/28/09
HB 2470 - Hugo - Northern Virginia Transportation District Fund; dedication of state matching funds.	(H) Committee on Finance	(H) Left in Finance	02/10/09
HB 2480 - Hugo - Real property tax; commercial property in Northern Virginia and Hampton Roads.	(H) Committee on Finance <hr/> (S) Committee on Finance	(H) VOTE: --- ADOPTION (91-Y 4-N)	02/26/09
HB 2485 - Nichols - Vehicle safety inspections; codifies exceptions thereto set forth in proclamation of July 2006.	(H) Committee on Transportation <hr/> (S) Committee on Transportation	(G) Approved by Governor-Chapter 115 (effective 7/1/09)	02/25/09
HB 2563 - Cole - Street construction; allows locality to withhold acceptance of plat approval if street not complete.	(H) Committee on Counties, Cities and Towns	(H) Left in Counties, Cities and Towns	02/10/09
HB 2577 - May - Highway noise abatement; Transportation Board or VDOT to plan therefor when constructing.	(H) Committee on Transportation <hr/> (S) Committee on Transportation	(G) Approved by Governor-Chapter 120 (effective 7/1/09)	02/25/09
HB 2622 - Marshall, D.W. - Salem Highway Construction District Transportation Revenue Fund; established.	(H) Committee on Appropriations	(H) Incorporated by Appropriations (HB1579-Oder)	02/06/09

HJ 620 - Oder - Constitutional amendment; Transportation Fund, Highway Maintenance and Operating Fund, etc.	(H) Committee on Privileges and Elections (S) Committee on Privileges and Elections	(H) Failed to pass in House	02/28/09
HJ 626 - Poisson - Motor fuel tax; joint subcommittee to study replacement with mileage-based fee.	(H) Committee on Rules	(H) Left in Rules	02/10/09
HJ 687 - Rust - Highways; Joint Commission on Transportation Accountability to develop plan to toll certain.	(H) Committee on Rules	(H) Left in Rules	02/10/09
HJ 711 - Jones - Transportation Network of Hampton Roads, Joint Subcommittee studying; continued.	(H) Committee on Rules (S) Committee on Rules	(S) Agreed to by Senate by voice vote	02/24/09
HJ 720 - Marshall, R.G. - Constitutional amendment; Transportation Fund, Highway Maintenance and Operating Fund, etc.	(H) Committee on Privileges and Elections	(H) Incorporated by Privileges and Elections (HJ620-Oder)	02/06/09
HJ 770 - May - Virginia's Transportation Needs, Commission on; created, report.	(H) Committee on Rules	(H) Left in Rules	02/10/09
SB 834 - Locke - Public Procurement Act; procurement of architectural & professional engineering service for project.	(H) Committee on General Laws (S) Committee on General Laws and Technology	(H) Signed by Speaker	02/28/09
SB 874 - Ticer - Mobile telephone and other wireless electronic devices; use of hands-free accessory while driving.	(S) Committee for Courts of Justice	(S) Failed to report (defeated) in Courts of Justice (6-Y 7-N 2-A)	02/04/09
SB 900 - McDougle - Contractor performance bonds; amount for locally administered transportation improvement projects.	(S) Committee on Transportation	(S) Left in Transportation	02/10/09
SB 966 - Blevins - Wireless telecommunications devices; prohibits use of while driving except in an emergency.	(S) Committee on Transportation	(S) Incorporated by Transportation (SB874-Ticer) (14-Y 0-N)	01/22/09
SB 995 - Miller, J.C. - Hampton Roads Transportation Authority; abolished, makes several technical changes.	(S) Committee on Finance	(S) Passed by indefinitely in Finance (16-Y 0-N)	02/11/09
SB 1018 - Miller, J.C. - Hampton Roads Transportation Authority; taxes, fees, etc. dedicated to financing its operation.	(H) Committee on Transportation (S) Committee on Transportation	(S) Title replaced 093643275-H1	02/26/09
SB 1041 - Hanger - Fuels taxes; annually adjusted.	(S) Committee on Finance	(S) Left in Finance	02/11/09

SB 1048 - Miller, Y.B. - Temporary vehicle registrations and overload and overweight permits; revises fees.	(S) Committee on Transportation	(S) Pursuant to Senate Rule 20 (L)	01/29/09
SB 1101 - Herring - Racing Commission; authorizes wagering on historical horse racing.	(S) Committee on General Laws and Technology	(S) Stricken at request of Patron in General Laws and Technology (15-Y 0-N)	01/28/09
SB 1137 - Petersen - Northern Virginia Transportation Authority; adds Cities of Alexandria, etc., to use % of revenues.	(H) Committee on Transportation <hr/> (S) Committee on Local Government	(S) Bill text as passed Senate and House (SB1137ER)	02/28/09
SB 1138 - Petersen - Parking on public highways; allows counties and towns, by ordinance, to regulate.	(H) Committee on Transportation <hr/> (S) Committee on Transportation	(H) Left in Transportation	02/28/09
SB 1203 - Puckett - Public Procurement Act; prequalification for certain transportation contracts.	(H) Committee on General Laws <hr/> (S) Committee on General Laws and Technology	(S) Bill text as passed Senate and House (SB1203ER)	02/28/09
SB 1283 - Newman - Motor fuels tax; change in tax basis.	(S) Committee on Finance	(S) Stricken at request of Patron in Finance (16-Y 0-N)	02/03/09
SB 1368 - Barker - Highway systems; allocation of maintenance funds.	(H) Committee on Appropriations <hr/> (S) Committee on Transportation	(H) Left in Appropriations	02/28/09
SB 1397 - Norment - Racing Commission; allocations from simulcast horse racing.	(S) Committee on General Laws and Technology	(S) Stricken at request of Patron in General Laws and Technology (15-Y 0-N)	01/28/09
SB 1398 - Norment - Transportation corridors; Transportation Board to establish connection with Transportation Plan.	(H) Committee on Transportation <hr/> (S) Committee on Transportation	(S) Title replaced 093875284-H1	02/25/09
SB 1438 - Miller, Y.B. - Urban highway system construction funds; 2/3 portion of a city's funds can be used to service debt.	(H) Committee on Appropriations <hr/> (S) Committee on Transportation	(H) VOTE: BLOCK VOTE PASSAGE (100-Y 0-N)	02/25/09
SB 1444 - Martin - Wireless telecommunications devices; prohibits use of while operating commercial motor vehicles.	(S) Committee on Transportation	(S) Passed by indefinitely in Transportation (14-Y 0-N)	01/22/09
SB 1464 - McDougle - Chief Executive Officer for Transportation; abolished	(S) Committee on Transportation	(S) Subject matter referred by letter to the Comm. on Trans Account.	02/09/09

Commonwealth Transportation Commissioner.		pursuant to Senate Rule 20 (L)	
SB 1482 - Hanger - Transportation Capital Projects Bond Act of 2007; repeals Act.	(S) Committee on Finance	(S) Left in Finance	02/11/09
SB 1498 - Barker - Motor fuels tax; converts rates to percentage that shall be calculated by DMV Commissioner.	(S) Committee on Finance	(S) Left in Finance	02/11/09
SB 1500 - Barker - Overload and overweight permits; to establish a new schedule of fees.	(S) Committee on Transportation	(S) Pursuant to Senate Rule 20 (L)	01/29/09
SB 1530 - Norment - Subdivision streets; acceptance into state secondary highway system.	(H) Committee on Transportation <hr/> (S) Committee on Transportation	(H) VOTE: BLOCK VOTE PASSAGE (99-Y 0-N)	02/24/09
SB 1534 - Watkins - Central Virginia Regional Transportation Authority; created.	(H) Committee on Counties, Cities and Towns <hr/> (S) Committee on Local Government	(S) Stricken from Senate calendar (37-Y 1-N)	02/26/09
SJ 323 - Martin - Constitutional amendment (first resolution); Transportation Funds.	(S) Committee on Privileges and Elections	(S) Failed to report (defeated) in Privileges and Elections (3-Y 10-N 1-A)	02/03/09
SJ 361 - Norment - Constitutional amendment; Transportation Funds (first reference).	(H) Committee on Privileges and Elections <hr/> (S) Committee on Privileges and Elections	(S) Failed to pass in Senate	02/28/09