

Virginia 2022 Legislative Session Update 2.17.2022

We have officially passed Crossover for the 2022 Legislative Session. Any bills that have not crossed chambers at this point, except the Budget Bill, will no longer be considered for legislation and amendments. The only bill that we were tracking that didn't have a hearing was HB 297 (McNamara) regarding regional fuels tax, which means it was left in committee and is dead for the year. However, several bills that impact transit funding through grocery and the state fuel tax pause are still in play. HB 1144 (Webert) which aims to pause the five-cent increase on the state tax on gasoline and diesel fuel, will likely be defeated in the Senate as it's equivalent SB 541 (Peake) was already killed. We continue to be concerned that HB 90 (McNamara) and SB 451 (Boysko) that eliminate the grocery tax are moving forward as there is no plan to replace the loss of \$250 million over two years for transportation funds from this grocery tax repeal.

Below is more information on the bills and budget amendments NVTC is prioritizing, in addition to others we are monitoring within these topics.

Senate:

SB 251 Northern Virginia Transportation Authority; funds for pedestrian and bicyclist projects. *Chief Patron: Senator Scott A. Surovell (D) - Senate District 36*

Original bill requires the Northern Virginia Transportation Authority (NVTA) to dedicate certain funds to projects that improve pedestrian or bicyclist safety or infrastructure. However, [bill was amended with a substitute](#) that states, "The Department of Transportation (the Department) shall convene a work group... [to] assess and separately identify the projected pedestrian, bicycling, and traffic calming infrastructure needs relative to the planning process in each locality[.]" **includes NVTC in the work group 02/11/22 Senate: Read third time and passed Senate (35-Y 4-N 1-A)*

SB 281 Transit buses; exempts a manufacturer, etc., engaged in distribution from certain requirements. *Chief Patron: Senator Adam P. Ebbin (D) - Senate District 30*

Exempts a manufacturer, factory branch, distributor, distributor branch, or factory or distributor representative engaged in the manufacture or distribution of transit buses from the requirements of obtaining a license from the Department of Motor Vehicles to engage in business. The bill also exempts transit buses from dealer's license plate and temporary license plate requirements. *02/02/22 Senate: Read third time and passed Senate (40-Y 0-N)*

SB 342 Transit Ridership Incentive Program. *Chief Patron: Senator George L. Barker (D) - Senate District 39*

Transit Ridership Incentive Program. Directs the Commonwealth Transportation Board to use at least 25% of the funds available for the Transit Ridership Incentive Program for grants to fund reduced-fare or zero-fare transit projects. Under current law, the amount that may be used for such programs is capped at 25%. The bill provides that funds awarded for reduced-fare or zero-fare transit projects shall not be included in the requirement that funds be awarded in accordance with a statewide equitable ratio. *01/27/22 Senate: Read third time and passed Senate (40-Y 0-N)*

SB 451 Retail Sales and Use tax; exemption for essential personal hygiene products. *Senator Jennifer B. Boysko (D) - Senate District 33*

This bill was amended to include the repeal of the grocery tax, as well as providing a sales and use tax exemption for essential personal hygiene products. *02/15/22 Senate: Read third time and passed Senate (37-Y 3-N)*

SB 488 Transit Transition Fund and Program; established. *Chief Patron: Senator Jennifer L. McClellan (D) - Senate District 9*

Establishes the Transit Transition Fund and Program, administered by the Department of Rail and Public Transportation, to provide grants to state, regional and local public entities to support the transition of public transit fleets to zero-emission and low-emission fleets. The Director of the Department is directed by the bill to report annually to the Governor and the chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations by November 1 of each year. The bill also directs 7.5% of the revenues collected from the tax on sports betting permittees to the Fund, reducing the share of the tax revenue allocated to the general fund. *02/04/22 Senate: Read third time and passed Senate (39-Y 0-N)*

House of Delegates:

HB 90 Sales tax; exemption for food purchased for human consumption and essential personal hygiene products. *Chief Patron: Delegate Joseph P. McNamara (R) - House District 8*

Exempts food purchased for human consumption and essential personal hygiene products (the grocery tax) from all state, regional, and local sales taxes. The bill dedicates state sales tax revenue to provide a supplemental school payment to counties and cities. For fiscal year 2023, the payment is the county or city's fiscal year 2022 distribution of revenue from the grocery tax. For fiscal year 2024 and after, the payment is the previous year's payment multiplied by the county or city's local sales tax index, defined in the bill as the ratio by which sales tax revenues in a county or city for the current year exceed the previous year's revenues. *02/15/22 House: Read third time and passed House (80-Y 20-N)*

[HB 142](#) Transit Ridership Incentive Program; amount of funds to be used to establish programs. *Chief Patron: Delegate Delores L. McQuinn (D) - House District 70*

Changes from a maximum of 25% to a minimum of 25% the amount of Transit Ridership Incentive Program (TRIP) funds to be used to support the establishment of programs to reduce the impact of fares on low-income individuals. The bill requires at least 25% of TRIP funds to be used to support regional transit initiatives and provides that the Commonwealth Transportation Board has the discretion to allocate the remaining funds available as authorized by law and based on the programs and initiatives submitted during the application process. *02/04/22 Senate: Referred to Committee on Transportation*

[HB 297](#): Regional fuels tax; suspends the imposition of any tax. *Chief Patron: Delegate Joseph P. McNamara (R) - House District 8*

Suspends the imposition of any regional fuels tax in the Commonwealth on and after July 1, 2022, but before July 1, 2023. *02/15/22 House: Left in Finance (bill is dead)*

[HB 444](#) Virginia Freedom of Information Act; meetings conducted through electronic meetings. *Patron: Delegate Elizabeth B. Bennett-Parker (D) - House District 45*

Amends existing provisions concerning electronic meetings by keeping the provisions for electronic meetings held in response to declared states of emergency, repealing the provisions that are specific to regional and state public bodies, and allowing public bodies to conduct all-virtual public meetings where all of the members who participate do so remotely and that the public may access through electronic communications means. Definitions, procedural requirements, and limitations for all-virtual public meetings are set forth in the bill, along with technical amendments. *02/03/22 Senate: Referred to Committee on General Laws and Technology*

[HB 1144](#) Gasoline and diesel fuel; lowers the rate of tax on July 1, 2022. *Chief Patron Delegate Michael J. Weibert (R) - House District 18*

Lowers the rate of tax on gasoline and diesel fuel on July 1, 2022, from 26.2 cents per gallon to 21.2 cents per gallon on gasoline and from 27 cents per gallon to 20.2 cents per gallon on diesel fuel, the rates that were in effect before July 1, 2021. The bill provides that the rate of tax on gasoline and diesel fuel will return to 26.2 and 27 cents per gallon, respectively, on July 1, 2023, and will be indexed based on the change in the United States Average Consumer Price Index; thereafter, the rate will be indexed annually. *02/15/22 House: Read third time and passed House (52-Y 48-N) (Senate equivalent [SB 541](#) (Peake) is already dead)*

Budget:

SB29 Item 4-14.00 #1g Suspension of Gas Tax Increase (language only) *Chief Patron: Governor Youngkin*

This amendment delays a planned increase in gasoline taxes from July 1, 2022 until July 1, 2023. HB29 Item 4-14.00 #1g is the House Budget Bill equivalent.

SB30 Item 447 #1s Zero Emission Transit Transition Fund *Chief Patron: McClellan*

This amendment establishes funding for the Transit Transition Fund established pursuant to SB 488 of the 2022 General Assembly that would dedicate 7.5% of annual sports betting revenues to a Transit Transition Program to support the acquisition of zero-emission transit buses. Funding for the program will reduce general funds available for appropriation by an estimated \$900,000 in each year based on the official forecast for sports wagering revenues.

HB29 Item 479.20 #1h Provide Hazard Pay Bonus to Public Transit *Chief Patron: Krizek*

This amendment provides \$20.0 million in federal ARPA funds to provide bonuses to public transit workers similar to those that have been provided to health care workers and public safety personnel during the pandemic.

HB30 Item 434 #1h HB 436 - Joint Public Meeting with National Capital Region Transportation Planning Board *Chief Patron: Sewell*

This amendment provides the Office of the Secretary of Transportation \$50,000 from the general fund each year pursuant to the passage of House Bill 436 which requires the Commonwealth Transportation Board to invite the National Capital Region Transportation Planning Board to participate in and present information at the joint transportation meeting held annually concerning projects in the Northern Virginia Area. The funding included in the amendment is a placeholder until a detailed estimate of the impact of House Bill 436 is completed.

HB30 Item 447 #1h HJ 76 - Study Northern Virginia Transit and Develop a Regional Transit Plan *Chief Patron: Torian*

This amendment provides \$2.25 million from the general fund in fiscal year 2023 pursuant to the passage of House Joint Resolution 76 of the 2022 General Assembly Session which requires the Department of Rail and Public Transportation to study Northern Virginia regional transit and develop a regional transit plan that includes an extension of Washington Metropolitan Area Transit Authority service to Prince William County. The Department would be required to report its findings and recommendations to the Governor and General Assembly by November 1, 2022.

Washington Update **Cardinal Infrastructure**

February 17, 2022

FY 2022 Appropriations

The House last week passed a CR in a bipartisan 272-162 vote to fund the government through March 11. Majority Leader Schumer said the Senate will take up the measure before the current CR expires Friday.

Several Republican senators continue to resist passage and are hoping to bar federal funds from being used to enforce vaccine mandates before they'll agree to pass a short-term funding bill. Several Democratic senators are expected to miss votes because of personal or family health issues, so Republicans now stand a chance at prevailing if their amendments are brought to a vote. Altering the House-passed bill could itself trigger a shutdown, since tweaking the funding patch would send it back to the House, which already adjourned last week for an 18-day break.

House and Senate Appropriations leaders last week agreed to a spending framework for FY22, though the details have not been made available. The appropriations leaders indicated they are now heading into conference negotiations for the omnibus package, which they plan to send to the President by March 11.

The CR also includes: extensions of the authority of HHS to fill positions within the National Disaster Medical System to respond to public health emergencies; a special assessment on certain individuals convicted of sexual abuse and trafficking; and a temporary emergency scheduling order on certain fentanyl-related substances. It *does not address* requests by dozens of transportation groups to fully fund the Bipartisan Infrastructure bill that pass in November.

Build Back Better

The White House seems to be engaged in discussions on introducing a new version of the Build Back Better Act. A revised version of the budget reconciliation measure would have more focus on deficit reduction to try to garner the support of Senator Joe Manchin (D-WV), who previously suggested a smaller version of the bill could be attainable if it went through the traditional hearing and markup process.

Manchin also indicated he may be willing to move forward if the measure includes additional tax reform measures to help finance any social spending package, while the economy struggles with rising inflation.

With consideration of the Build Back Better Act officially stalled for the time being, lawmakers

on Capitol Hill seem to be coming together to instead focus on a more bipartisan legislative agenda.

Infrastructure Law Implementation

USDOT Undersecretary for Policy, Carlos Monje this week noted that the federal government is still operating under FY 2021 funding levels in the current CR - meaning that increased program authorization levels cannot yet be fully realized until a full year appropriations bill is enacted.

According to Monje, this is putting constraints on the department's staffing needs as well as slowing down the rollout of new transit programs.

That said, some programs, like bus discretionary grants, benefited from advanced appropriations in the infrastructure bill and solicitations for funding will likely be published next week.

Several USDOT agencies have been and are planning briefings and webinars to provide guidance on new programs and updates to existing programs.

National Electric Vehicle Infrastructure

The Federal Highway Administration (FHWA) announced \$615 million in FY22 funding for the new National Electric Vehicle Infrastructure (NEVI) Formula Program authorized by the Infrastructure Investment and Jobs Act.

State and local governments may nominate new Alternative Fuel Corridors by May 13, 2022. States must then submit EV Infrastructure Deployment Plans to the new Joint Office of Energy and Transportation led by USDOT and DOE for approval by August 1, 2022 before they can access formula funding.

Gas Tax Holiday Proposal

A handful of Senate Democrats (Kelly-AZ, Hassan-NH, Warnock-GA and Cortez Masto-NV) who are in for tough midterm election battles are throwing their weight into a proposal to suspend the federal gas tax through the end of the year.

Senate Republicans dismissed this and other ideas to cut taxes on essential goods as both nonsensical and desperate, suggesting getting 60 votes would be near impossible.

But a gas tax holiday creates problems on several fronts: any reduction in receipts would short what was passed in IIJA or require a general fund transfer and there's no assurance that lower gas prices get passed along to the consumer.

**Impact of SB 451 & HB 90 (elimination of the Grocery/Hygiene Tax)
on the Commonwealth Transportation Trust Fund**

* in millions	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	Total
RSUT :Grocery Tax Elimination	\$54.2	\$133.9	\$137.2	\$138.1	\$138.7	\$139.3	\$741.4
RSUT: Hygiene Tax Elimination	\$0.6	\$1.4	NA	NA	NA	NA	\$2.0
	\$54.8	\$135.3	\$137.2	\$138.1	\$138.7	\$139.3	\$743.4
Highway Maintenance & Operations Fund	\$27.95	\$69.00	\$69.97	\$70.43	\$70.74	\$71.04	\$379.1
Road Construction Program	\$14.23	\$35.14	\$35.63	\$35.86	\$36.02	\$36.18	\$193.1
Mass Transit Fund	\$6.18	\$15.25	\$15.46	\$15.56	\$15.63	\$15.70	\$83.8
Rail Fund	\$2.01	\$4.97	\$5.04	\$5.08	\$5.10	\$5.12	\$27.3
Port Fund	\$0.67	\$1.66	\$1.68	\$1.69	\$1.70	\$1.71	\$9.1
Aviation Fund	\$0.40	\$0.99	\$1.01	\$1.02	\$1.02	\$1.02	\$5.5
Space Flight Fund	\$0.27	\$0.66	\$0.67	\$0.68	\$0.68	\$0.68	\$3.6
Priority Transportation Fund	\$2.82	\$6.96	\$7.06	\$7.11	\$7.14	\$7.17	\$38.2
DMV	\$0.27	\$0.66	\$0.67	\$0.68	\$0.68	\$0.68	\$3.6
	\$54.8	\$135.3	\$137.2	\$138.1	\$138.7	\$139.3	

Source: Virginia Transit Association, February 14, 2022