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HOUSE BILL NO. 109

Offered January 9, 2002

Prefiled December 19, 2001

A BILL to authorize the Commonwealth Transportation Board pursuant to Section 9(d) of Article X of the Constitution of Virginia to issue Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes in a principal amount not exceeding $750,000,000 to provide additional funding and to accelerate transportation projects statewide; relating to funding of transportation projects.

Patrons—Marshall, R.G. and Lingamfelter

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Commonwealth Transportation Board is authorized, by and with the consent of the Governor, to issue Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes, as follows:

§ 1. This Act shall be known and may be cited as the "Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes Act of 2002."

§ 2. The Commonwealth Transportation Board is hereby authorized, by and with the consent of the Governor, to issue, pursuant to Section 9(d) of Article X of the Constitution of Virginia and pursuant to the provisions of §§ 33.1-267 through 33.1-295 of the Code of Virginia, as amended, from time to time revenue obligations of the Commonwealth to be designated "Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes, Series ...," in a principal amount not to exceed $750,000,000 (exclusive of any obligations that may be issued to refund such notes in accordance with § 33.1-293 of the Code of Virginia, as amended) plus an amount for financing expenses, (including, without limitation, any original issue discount) (the "Notes"). The net proceeds of the Notes shall be used exclusively for the purpose of providing funds, together with any other available funds, for paying the costs, incurred or to be incurred for construction or funding of projects set forth in the third enactments of Chapters 1019 and Chapter 1044 of the Acts of Assembly of 2000 ("the projects"). The percentage of such proceeds distributed to the projects within each transportation district shall be equivalent to the amount allocated to such district in the third enactments of Chapters 1019 and Chapter 1044 of the Acts of Assembly of 2000 divided by the grand total of all amounts allocated in the third enactments of Chapters 1019 and Chapter 1044 of the Acts of Assembly of 2000. Funds allocated to projects within a transportation district may be allocated among the projects within the same transportation district as determined by the Commonwealth Transportation Board.

§ 3. The proceeds of Notes, including any premium received on the sale thereof, shall be made available by the Commonwealth Transportation Board to pay costs of the projects and, where appropriate, may be paid to any authority, locality, commission or other entity for the purposes of paying for costs of the projects. The proceeds of Notes may be used together with any federal, local or private funds that may be made available for such purpose. The proceeds of Notes, together with any investment earnings thereon, may at the discretion of the Commonwealth Transportation Board secure the payment of principal or purchase price of and redemption premium, if any, and interest on Notes.

§ 4. The terms and structure of each issue of Notes shall be determined by the Commonwealth Transportation Board, subject to approval by the Treasury Board in accordance with § 2.2-2416 of the Code of Virginia, as amended. The Notes of each issue shall be dated, shall be issued in a principal amount (subject to the limitation as to the amount outstanding at any one time set forth in § 2), shall bear interest at such rate or rates that may be fixed, adjustable, variable or a combination thereof, and may be determined by a formula or other method, shall mature at such time or times not exceeding ten years after the issuance thereof, and may be made subject to purchase or redemption before their maturity or maturities, at such price or prices and under such terms and conditions, all as may be determined by the Commonwealth Transportation Board. The Commonwealth Transportation Board shall determine the form of Notes, whether Notes are certificated or uncertificated, and fix the authorized denomination or denominations of Notes and the place or places of payment of principal or purchase price of, and redemption premium, if any, and interest on, Notes, which may be at the office of the State Treasurer or any bank or trust company within or without the Commonwealth. The principal or purchase price of, and redemption premium, if any, and interest on, Notes shall be made payable in lawful money of the United States of America. Each issue of Notes may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments of principal or purchase price of and redemption premium, if any, and interest on such Notes. All Notes

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shall have and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth.

The Commonwealth Transportation Board may sell Notes from time to time at public or private sale, by competitive bidding, negotiated sale or private placement, for such price or prices as it may determine to be in the best interests of the Commonwealth.

§ 5. The Notes shall be signed on behalf of the Commonwealth Transportation Board by the chairman or vice-chairman of the Commonwealth Transportation Board, or shall bear the facsimile signature of such officer, and shall bear the official seal of the Board, which shall be attested by the manual or facsimile signature of the secretary or assistant secretary of the Commonwealth Transportation Board. In the event that Notes shall bear the facsimile signature of the chairman or vice-chairman of the Commonwealth Transportation Board, such Notes shall be signed by such administrative assistant as the chairman of the Transportation Board shall determine or by any registrar/paying agent that may be designated by the Commonwealth Transportation Board. In case any officer whose signature or a facsimile of whose signature appears on any Notes shall cease to be such officer before the delivery of such Notes, such signature or facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in office until such delivery.

§ 6. All expenses incurred under this Act or in connection with issuance of Notes shall be paid from the proceeds of such Notes or from any available funds as the Commonwealth Transportation Board shall determine.

§ 7. The Commonwealth Transportation Board is hereby authorized to borrow money at such rate or rates through the execution and issuance of notes for the same, but only in the following circumstances and under the following conditions:

a. In anticipation of the sale of Notes the issuance of which shall have been authorized by the Commonwealth Transportation Board and shall have been approved by the Governor, if the Commonwealth Transportation Board shall deem it advisable to postpone the issuance of such Notes; or

b. For the renewal of any anticipation notes herein authorized.

§ 8. The proceeds of Notes and of any anticipation notes herein authorized (except the proceeds of the Notes the issuance of which has been anticipated by such anticipation notes) shall be placed by the State Treasurer in a special fund in the State Treasury, or may be placed with a trustee in accordance with § 33.1-283 of the Code of Virginia, as amended, and shall be disbursed only for the purpose for which such Notes and such anticipation notes shall be issued; provided, however, proceeds derived from the sale of Notes herein authorized shall be first used in the payment of any anticipation notes that may have been issued in anticipation of the sale of such Notes and any renewals of such notes. The proceeds of Notes and of any anticipation notes herein authorized, together with any investment earnings thereon, shall not be taken into account in computing, and shall be in addition to funds allocated pursuant to, the highway allocation formula set forth in § 33.1-23.1 of the Code of Virginia, as amended.

§ 9. The Commonwealth Transportation Board is hereby authorized to receive any other funds that may be made available to pay costs of the projects and, subject to appropriation, to make available the same to the payment of the principal or purchase price of, and redemption premium, if any, and interest on, Notes authorized hereby and to enter into the appropriate agreements to allow for those funds to be paid into the State Treasury, or to a trustee in accordance with § 33.1-283 of the Code of Virginia, as amended, to pay a part of the costs of the projects or to pay principal or purchase price of, and redemption premium, if any, and interest on Notes.

§ 10. In accordance with Section 7 of Article X of the Constitution of Virginia and § 2.2-1802 of the Code of Virginia, as amended, all federal highway reimbursements and other federal highway assistance received by the Commonwealth from time to time shall be paid into the State Treasury. The Commonwealth Transportation Board, in connection with the issuance of Notes, shall establish a fund in accordance with § 33.1-286 of the Code of Virginia, as amended, either in the State Treasury or with a trustee in accordance with § 33.1-283 of the Code of Virginia, as amended, which shall secure and be used for the payment of Notes to the credit of which there shall be deposited such amounts, appropriated therefor by the General Assembly, as are required to pay principal or purchase price of, and redemption premium, if any, and interest on, Notes, as and when due and payable, (i) first from any federal highway reimbursements and any other federal highway assistance received from time to time by the Commonwealth, and (ii) then from such other funds, if any, which may be designated by the General Assembly for such purpose.

§ 11. Note proceeds and moneys in any reserve funds and sinking funds in respect of Notes shall be invested by the State Treasurer in accordance with the provisions of general law relating to the investment of such funds belonging to or in the control of the Commonwealth, or by a trustee in accordance with § 33.1-283 of the Code of Virginia, as amended.

§ 12. The interest income from, and any profit made on the sale of, the obligations issued under the provisions of this Act shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county or other political subdivision thereof.

§ 13. All obligations issued under the provisions of this Act are hereby made securities in which all persons and entities listed in § 33.1-280 of the Code of Virginia, as amended, may properly and legally invest funds under their control.

2. That the authority to issue bonds pursuant to this Act is in addition to the authority to issue Virginia Federal Highway Reimbursement Anticipation Notes pursuant to Chapters 1019 and 1044 of the Acts of Assembly of 2000.

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