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HOUSE BILL NO. 110

Offered January 9, 2002

Prefiled December 19, 2001

A BILL to authorize the issuance of Commonwealth of Virginia Transportation Revenue Bonds, Series. . . , by and with the consent of the Governor pursuant to the provisions of §§ 33.1-267 through 33.1-295 of the Code of Virginia and as permitted by Article X, Section 9 (d) of the Constitution of Virginia, in a principal amount not exceeding \$1,000,000,000, the proceeds to be used to finance the cost of an electronic communication infrastructure project to aid telecommuting and ease traffic congestion and other specified transportation projects; with the bonds to be funded by the dedication of a portion of insurance license taxes; and to repeal the tenth enactments of Chapter 1019 and Chapter 1044 of the Acts of Assembly of 2000; relating to funding of certain transportation projects.

Patron—Marshall, R.G.

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That Commonwealth of Virginia Transportation Revenue Bonds are authorized to be issued as follows:

§ 1. This act shall be known and may be cited as the Commonwealth of Virginia Transportation Revenue Bond Act of 2002.

§ 2. The Commonwealth Transportation Board is hereby authorized, by and with the consent of the Governor, to issue, pursuant to the provisions of §§ 33.1-267 through 33.1-295 of the Code of Virginia, at one time or from time to time, bonds of the Commonwealth to be designated "Commonwealth of Virginia Transportation Revenue Bonds, Series...", in an aggregate principal amount not exceeding \$1,000,000,000 to finance the cost of certain transportation projects and electronic commerce infrastructure projects (the "Projects"), plus an amount for the issuance costs, reserve funds, and other financing expenses. The proceeds of such bonds shall be used exclusively for the purpose of providing funds, with any other available funds, for paying costs incurred or to be incurred for construction of the Projects; such costs include environmental and engineering studies, completing and updating plans, rights-of-way acquisition, construction, and related improvements. The Projects are as follows:

| <i>Project</i> | <i>Bond Amount</i> |
|--|----------------------|
| <i>Mass Transit Rail in Northern Virginia</i> | <i>\$350,000,000</i> |
| <i>Projects in the 2020 Plan of the Transportation</i> | |
| <i>Coordinating Council of Northern Virginia</i> | <i>\$250,000,000</i> |
| <i>Hampton Roads Third Crossing</i> | <i>\$150,000,000</i> |
| <i>High Speed Rail in Richmond District</i> | <i>\$50,000,000</i> |
| <i>I-81 Improvements</i> | <i>\$150,000,000</i> |
| <i>Statewide Electronic Communication Infrastructure</i> | |
| <i>to Aid Telecommuting and Ease Traffic Congestion</i> | <i>\$50,000,000</i> |

The revenue bonds shall be issued by the Commonwealth Transportation Board and sold through the Treasury Board, which is hereby designated the sales and paying agent of the Commonwealth Transportation Board with respect to such bonds. The Treasury Board's duties shall include the approval of the terms and structure of the bonds.

§ 3. The proceeds of the bonds herein authorized shall be expended by the Transportation Board for the purpose for which they were issued.

The proceeds of the bonds may be used with any local, private, state, or federal funds that may be made available for the Projects.

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§ 4. The terms and structure of each issue of the bonds 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 bonds of each issue shall be dated, shall be issued in a principal amount (subject to the limitation as to the aggregate principal amount 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 the bonds, whether the bonds are certificated or uncertificated, and fix the authorized denomination or denominations of the bonds and the place or places of payment of principal or purchase price of, and redemption premium, if any, and interest on, the bonds, 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, the bonds shall be made payable in lawful money of the United States of America. Each issue of the bonds 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 bonds. All of the bonds 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 the bonds 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 bonds 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 the bonds shall bear the facsimile signature of the chairman or vice chairman of the Commonwealth Transportation Board, such bonds 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 bonds shall cease to be such officer before the delivery of such bonds, 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 shall be paid from the proceeds of the bonds or from any available funds as the Commonwealth Transportation Board shall determine. Any advance made by the Board may be reimbursed from the Transportation Trust Fund or from the proceeds of the bonds or notes.

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

a. In anticipation of the sale of the bonds 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 the bonds.

b. For the renewal of any loan evidenced by notes herein authorized.

§ 8. The proceeds, excluding any premium, of such bonds and of the bond anticipation notes herein authorized (except the proceeds of bonds the issuance of which has been anticipated by such bond anticipation notes) shall be placed by the State Treasurer in a special fund in the state treasury, or with his concurrence may be placed in accordance with § 33.1-283 of the Code of Virginia, and shall be disbursed only for the purpose for which such bonds and such bond anticipation notes shall be issued, provided that proceeds derived from the sale of bonds or renewal herein authorized shall be first used in the payment of any bond anticipation notes that may have been issued in anticipation of the sale of such bonds and any renewals of such notes.

§ 9. The Commonwealth Transportation Board is hereby authorized to receive any other funds that may be made available to pay the cost of the Projects and to make available such funds for the payment of the principal of and interest on the debt authorized hereby, and to enter into the appropriate agreements to allow for those funds to be paid into the state treasury to pay a part of the cost of the Projects or to pay the principal of and interest on such debt.

§ 10. The Commonwealth Transportation Board, prior to the issuance of such bonds, may establish a minimum reserve fund requirement for the bonds.

§ 11. The Commonwealth Transportation Board, prior to the issuance of the bonds, shall establish a sinking fund for the payment of the bonds to the credit of which fund there shall be deposited such

amounts as are required to pay debt service on the bonds when due and payable for such fiscal years from (i) moneys from the Commonwealth of Virginia Transportation Revenue Bond Act of 2002 Fund established pursuant to the fourth enactment of this act and (ii) to the extent required, other legally available revenues from any other available source of funds.

§ 12. Bond proceeds and moneys in any reserve funds and sinking funds 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 with the State Treasurer's concurrence by a trustee in accordance with § 33.1-283 of the Code of Virginia.

§ 13. The interest income from, but not any profit made on the sale of the bonds, notes and coupons, if any, 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.

§ 14. All bonds and notes issued under the provisions of this act are hereby made securities in which all public officers and bodies of the Commonwealth, all counties, cities, and towns and municipal subdivisions, all insurance companies and associations, all savings banks and savings institutions, including savings and loan associations, administrators, guardians, executors, trustees, and other fiduciaries in the Commonwealth may properly and legally invest funds under their control.

§ 15. If any part of this act or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, such holding shall not affect the validity of the remainder of the provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

2. That the tenth enactments of Chapter 1019 and Chapter 1044 of the Acts of Assembly of 2000 are repealed.

3. That beginning July 1, 2002, there shall be deposited in each fiscal year to the Commonwealth of Virginia Transportation Revenue Bond Act of 2002 Fund ("the Fund") established in the fourth enactment, from the general fund an amount equal to one-third of the estimated revenue to be collected for all insurance license tax imposed pursuant to Article 1 (§ 58.1-2500 et seq.) of Chapter 25 of Title 58.1 for each such fiscal year. The Governor shall include the amounts estimated to be required to be deposited to the Fund as provided in this enactment, in the budget bill submitted to the General Assembly pursuant to § 2.2-1509. For purposes of any appropriation act enacted by the General Assembly and for the purposes of the Comptroller's preliminary and final annual reports required by § 2.2-813, all deposits to the Fund pursuant to this enactment shall be accounted for and considered to be a part of the general fund of the state treasury.

4. There is hereby created in the Department of the Treasury a special nonreverting fund that shall be a part of the Transportation Trust Fund and that shall be known as the Commonwealth of Virginia Transportation Revenue Bond Act of 2002 Fund ("the Fund"), consisting of revenues from one-third of the annual collections of insurance license taxes as directed by the third enactment. The Fund shall also include any other funds as may be appropriated by the General Assembly from time to time and designated for this Fund and all interest, dividends and appreciation that may accrue thereto. Any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund, but shall remain in the Fund. Allocations from this Fund shall be used solely for the purposes and pursuant to the conditions provided in the first enactment.