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SENATE BILL NO. 33

Offered January 9, 2002

Prefiled December 19, 2001

A BILL to authorize the Commonwealth Transportation Board to issue Commonwealth of Virginia Transportation Appropriation Bonds pursuant to Article X, Section 9 (d) of the Virginia Constitution and §§ 33.1-267 through 33.1-295 of the Code of Virginia, in an amount not to exceed \$317,000,000 in fiscal year 2003 and \$335,600,000 in fiscal year 2004 for a total of \$652,600,000, for the purpose of providing funds, together with any other available funds, for paying the costs of projects authorized in the Virginia Transportation Development Plan as needed to meet construction cash-flow needs.

Patrons—Chichester and Rerras; Delegate: Welch

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 Transportation Appropriation Bonds, as follows:

§ 1. This act shall be known and may be cited as the "Commonwealth of Virginia Transportation Appropriation Bonds 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, as amended, from time to time revenue obligations of the Commonwealth to be designated "Commonwealth of Virginia Transportation Appropriation Bonds, Series", at one or more times in an aggregate principal amount not to exceed \$317,000,000 in fiscal year 2003 and \$335,600,000 in fiscal year 2004 for a total of \$652,600,000 (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 "Bonds"). The net proceeds of the Bonds 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 authorized in the Virginia Transportation Development Plan adopted by the Commonwealth Transportation Board (formally the Commonwealth Transportation Board's "Six-Year Improvement Program") as needed to meet construction cash-flow needs.

§ 3. The proceeds of the Bonds, 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 the Bonds may be used together with any federal, local or private funds that may be made available for such purpose. The proceeds of the Bonds, 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 the Bonds.

§ 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 which 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 twenty 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 the Bonds shall have and are hereby declared to have, as between successive holders, all the

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59 qualities and incidents of negotiable instruments under the negotiable instruments law of the
60 Commonwealth.

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

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

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

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

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

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

86 § 8. The proceeds of the Bonds and of any anticipation notes herein authorized (except the proceeds
87 of the Bonds the issuance of which has been anticipated by such anticipation notes) shall be placed by
88 the State Treasurer in a special fund in the state treasury, or may be placed with a trustee in
89 accordance with § 33.1-283 of the Code of Virginia, as amended, and shall be disbursed only for the
90 purpose for which such Bonds and such anticipation notes shall be issued; provided, however, proceeds
91 derived from the sale of the Bonds herein authorized shall be first used in the payment of any
92 anticipation notes that may have been issued in anticipation of the sale of such Bonds and any renewals
93 of such notes.

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

101 § 10. The Commonwealth Transportation Board, in connection with the issuance of the Bonds, shall
102 establish a fund in accordance with § 33.1-286 of the Code of Virginia, as amended, either in the state
103 treasury or with a trustee in accordance with § 33.1-283 of the Code of Virginia, as amended, which
104 shall secure and be used for the payment of the Bonds to the credit of which there shall be deposited
105 such amounts, appropriated therefor by the General Assembly, as are required to pay principal or
106 purchase price of, and redemption premium, if any, and interest on, the Bonds, as and when due and
107 payable, from any funds which may be designated by the General Assembly for such purpose.

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

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

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