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HOUSE BILL NO. 2099

Offered January 12, 2005

Prefiled January 11, 2005

A BILL to amend and reenact §§ 33.1-268, 33.1-269, and 33.1-277 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 58.1-2511 and 58.1-2512; and to repeal the tenth enactment of Chapter 1019 of the Acts of Assembly of 2000 and the tenth enactment of Chapter 1044 of the Acts of Assembly of 2000, relating to the dedication of certain insurance license tax revenues for transportation projects throughout the Commonwealth; and to authorize the Commonwealth Transportation Board to issue revenue bonds for transportation projects throughout the Commonwealth.

Patrons—Hugo, Welch, Abbitt, Albo, Alexander, Amundson, Athey, BaCote, Black, Byron, Carrico, Cline, Cole, Cosgrove, Cox, Ebbin, Eisenberg, Fralin, Frederick, Gear, Griffith, Hamilton, Hargrove, Hogan, Howell, A.T., Hurt, Janis, Joannou, Jones, D.C., Jones, S.C., Kilgore, Landes, Lingamfelter, Marshall, D.W., Marshall, R.G., May, McDonnell, McDougale, McQuigg, Melvin, Miles, Miller, Moran, Nixon, Nutter, Oder, Parrish, Phillips, Purkey, Putney, Rapp, Reese, Reid, Rust, Saxman, Scott, E.T., Shannon, Sherwood, Shuler, Sickles, Spruill, Stump, Suit, Tata, Ward, Wardrup, Ware, O. and Weatherholtz; Senators: Cuccinelli, DeVolites Davis and O'Brien

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-268, 33.1-269, and 33.1-277 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 58.1-2511 and 58.1-2512 as follows:

§ 33.1-268. Definitions.

As used in this article, the following words and terms shall have the following meanings:

(1) The word "Board" means the Commonwealth Transportation Board, or if the Commonwealth Transportation Board is abolished, any board, commission or officer succeeding to the principal functions thereof or upon whom the powers given by this article to the Board shall be given by law.

(2) The word "project" or "projects" means any one or more of the following:

(a) York River Bridges, extending from a point within the Town of Yorktown in York County, or within York County across the York River to Gloucester Point or some point in Gloucester County.

(b) Rappahannock River Bridge, extending from Greys Point, or its vicinity, in Middlesex County, across the Rappahannock River to a point in the vicinity of White Stone, in Lancaster County, or at some other feasible point in the general vicinity of the two respective points.

(c), (d) [Reserved.]

(e) James River Bridge, from a point at or near Jamestown, in James City County, across the James River to a point in Surry County.

(f), (g) [Reserved.]

(h) James River, Chuckatuck and Nansemond River Bridges, together with necessary connecting roads, in the Cities of Newport News and Suffolk and the County of Isle of Wight.

(i) [Reserved.]

(j) Hampton Roads Bridge, Tunnel, or Bridge and Tunnel System, extending from a point or points in the Cities of Newport News and Hampton on the northwest shore of Hampton Roads across Hampton Roads to a point or points in the City of Norfolk or Suffolk on the southeast shore of Hampton Roads.

(k) The Norfolk-Virginia Beach Highway, extending from a point in the vicinity of the intersection of Interstate Route 64 and Primary Route 58 at Norfolk to some feasible point between London Bridge and Primary Route 60.

(l) The Henrico-James River Bridge, extending from a point on the eastern shore of the James River in Henrico County to a point on the western shore, between Falling Creek and Bells Road interchanges of the Richmond-Petersburg Turnpike; however, the project shall be deemed to include all property, rights, easements and franchises relating to any of the foregoing projects and deemed necessary or convenient for the operation thereof and to include approaches thereto.

(m) The limited access highway between the Patrick Henry Airport area and the Newport News downtown area which generally runs parallel to tracks of the Chesapeake and Ohio Railroad.

(n) Transportation improvements in the Dulles Corridor, with an eastern terminus of the East Falls Church Metrorail station at Interstate Route 66 and a western terminus of Virginia Route 772 in Loudoun County, including without limitation the Dulles Toll Road, the Dulles Access Road, outer

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53 roadways adjacent or parallel thereto, mass transit, including rail, bus rapid transit, and capacity
54 enhancing treatments such as High-Occupancy Vehicle lanes, High-Occupancy Toll (HOT) lanes,
55 interchange improvements, commuter parking lots, and other transportation management strategies.

56 (o), (p) [Repealed.]

57 (q) Subject to the limitations and approvals of § 33.1-279.1, any other highway for a primary
58 highway transportation improvement district or transportation service district which the Board has agreed
59 to finance under a contract with any such district or any other alternative mechanism for generation of
60 local revenues for specific funding of a project satisfactory to the Commonwealth Transportation Board,
61 the financing for which is to be secured by Transportation Trust Fund revenues under any appropriation
62 made by the General Assembly for that purpose and payable first from revenues received under such
63 contract or other local funding source, second, to the extent required, from funds appropriated and
64 allocated, pursuant to the highway allocation formula as provided by law, to the highway construction
65 district in which the project is located or to the county or counties in which the project is located and
66 third, to the extent required from other legally available revenues of the Trust Fund and from any other
67 available source of funds.

68 (r) U.S. 58 Corridor Development Program projects as defined in §§ 33.1-221.1:2 and 58.1-815.

69 (s) The Northern Virginia Transportation District Program as defined in § 33.1-221.1:3.

70 (t) Any program for highways or mass transit or transportation facilities, endorsed by the local
71 jurisdiction or jurisdictions affected, which agree that certain distributions of state recordation taxes will
72 be dedicated and used for the payment of any bonds or other obligations, including interest thereon, the
73 proceeds of which were used to pay the cost of the program. Any such program shall be referred to as a
74 "Transportation Improvement Program."

75 (u) Any project designated from time to time by the General Assembly financed in whole or part
76 through the issuance of Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes.

77 (v) *Any project authorized by the General Assembly financed in whole or in part by funds from the*
78 *Commonwealth Transportation Investment Fund under § 58.1-2512 or from the proceeds of bonds whose*
79 *debt service is paid in whole or in part by funds from such Fund.*

80 (3) The word "undertaking" means all of the projects authorized to be acquired or constructed under
81 this article.

82 (4) The word "improvements" means such repairs, replacements, additions and betterments of and to
83 a project acquired by purchase or by condemnation as are deemed necessary to place it in a safe and
84 efficient condition for the use of the public, if such repairs, replacements, additions and betterments are
85 ordered prior to the sale of any bonds for the acquisition of such project.

86 (5) The term "cost of project" as applied to a project to be acquired by purchase or by
87 condemnation, includes the purchase price or the amount of the award, cost of improvements, financing
88 charges, interest during any period of disuse before completion of improvements, cost of traffic
89 estimates and of engineering and legal expenses, plans, specifications and surveys, estimates of cost and
90 of revenues, other expenses necessary or incident to determining the feasibility or practicability of the
91 enterprises, administrative expenses and such other expenses as may be necessary or incident to the
92 financing herein authorized and the acquisition of the project and the placing of the project in operation.

93 (6) The term "cost of project" as applied to a project to be constructed, embraces the cost of
94 construction, the cost of all lands, properties, rights, easements and franchises acquired which are
95 deemed necessary for such construction, the cost of acquiring by purchase or condemnation any ferry
96 which is deemed by the Board to be competitive with any bridge to be constructed, the cost of all
97 machinery and equipment, financing charges, interest prior to and during construction and for one year
98 after completion of construction, cost of traffic estimates and of engineering data, engineering and legal
99 expenses, cost of plans, specifications and surveys, estimates of cost and of revenues, other expenses
100 necessary or incident to determining the feasibility or practicability of the enterprise, administrative
101 expense and such other expenses as may be necessary or incident to the financing herein authorized, the
102 construction of the project, the placing of the project in operation and the condemnation of property
103 necessary for such construction and operation.

104 (7) The word "owner" includes all individuals, incorporated companies, copartnerships, societies or
105 associations having any title or interest in any property rights, easements or franchises authorized to be
106 acquired by this article.

107 (8) [Repealed.]

108 (9) The words "revenue" and "revenues" include tolls and any other moneys received or pledged by
109 the Board pursuant to this article, including, without limitation, legally available Transportation Trust
110 Fund revenues and any federal highway reimbursements and any other federal highway assistance
111 received from time to time by the Commonwealth.

112 (10) The terms "toll project" and "toll projects" mean projects financed in whole or in part through
113 the issuance of revenue bonds which are secured by toll revenues generated by such project or projects.

114 § 33.1-269. General powers of Board.

The Commonwealth Transportation Board may, subject to the provisions of this article:

1. Acquire by purchase or by condemnation, construct, improve, operate and maintain any one or more of the projects mentioned and included in the undertaking defined in this article;

2. Issue revenue bonds of the Commonwealth, to be known and designated as "Commonwealth of Virginia Toll Revenue Bonds," payable from earnings and from any other available sources of funds, to pay the cost of such projects;

3. Subject to the limitations and approvals of § 33.1-279.1, issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Contract Revenue Bonds," secured by Transportation Trust Fund revenues under a payment agreement between the Board and the Treasury Board, subject to their appropriation by the General Assembly and payable first from revenues received pursuant to contracts with a primary highway transportation improvement district or transportation service district or other local revenue sources for which specific funding of any such bonds may be authorized by law; second, to the extent required, from funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the county or counties in which the project or projects to be financed are located; and third, to the extent required, from other legally available revenues of the Trust Fund and from any other available source of funds;

4. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Revenue Bonds," secured (i) by revenues received from the U.S. Route 58 Corridor Development Fund, subject to their appropriation by the General Assembly, (ii) to the extent required, from revenues legally available from the Transportation Trust Fund and (iii) to the extent required, from any other legally available funds which have been appropriated by the General Assembly;

4a. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Revenue Bonds," secured, subject to their appropriation by the General Assembly, first from (i) revenues received from the Northern Virginia Transportation District Fund, (ii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the city or county in which the project or projects to be financed are located, (iii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iv) such other funds which may be appropriated by the General Assembly;

4b. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Program Revenue Bonds" secured, subject to their appropriation by the General Assembly, first from (i) any revenues received from any Set-aside Fund established by the General Assembly pursuant to § 58.1-816.1, (ii) to the extent required, revenues received pursuant to any contract with a local jurisdiction or any alternative mechanism for generation of local revenues for specific funding of a project satisfactory to the Commonwealth Transportation Board, (iii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the city or county in which the project or projects to be financed are located, (iv) to the extent required, legally available revenues of the Transportation Trust Fund, and (v) such other funds which may be appropriated by the General Assembly. No bonds for any project or projects shall be issued under the authority of this subsection unless such project or projects are specifically included in a bill or resolution passed by the General Assembly;

4c. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Program Revenue Bonds" secured, subject to their appropriation by the General Assembly, first from (i) any revenues received from the Commonwealth Transit Capital Fund established by the General Assembly pursuant to subdivision A 4 g of § 58.1-638, (ii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iii) such other funds which may be appropriated by the General Assembly. No bonds for any project or projects shall be issued under the authority of this subsection unless such project or projects are specifically included in a bill or resolution passed by the General Assembly;

4d. Issue revenue bonds of the Commonwealth from time to time to be known and designated as "Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes" secured, subject to their appropriation by the General Assembly, (i) first from any federal highway reimbursements and any other federal highway assistance received from time to time by the Commonwealth; (ii) then, at the discretion of the Board, to the extent required, from legally available revenues of the Transportation Trust Fund; and (iii) then from such other funds, if any, which are designated by the General Assembly for such purpose;

4e. Issue revenue bonds of the Commonwealth from time to time to be known and designated as "Commonwealth of Virginia Credit Assistance Revenue Bonds," secured, subject to their appropriation by the General Assembly, solely from revenues with respect to or generated by the project or projects

176 being financed thereby and any tolls or other revenues pledged by the Board as security therefor and in
177 accordance with the applicable federal credit assistance authorized with respect to such project or
178 projects by the United States Department of Transportation;

179 4f. *Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of*
180 *Virginia Transportation Revenue Bonds," secured (i) from one-third of the revenues deposited into the*
181 *Commonwealth Transportation Investment Fund pursuant to § 58.1-2512; (ii) to the extent required,*
182 *from revenues legally available from the Transportation Trust Fund; and (iii) to the extent required,*
183 *from any other legally available funds;*

184 5. Fix and collect tolls and other charges for the use of such projects or to refinance the cost of such
185 projects;

186 6. Construct grade separations at intersections of any projects with public highways, streets or other
187 public ways or places and change and adjust the lines and grades thereof so as to accommodate the
188 same to the design of such grade separations, the cost of such grade separations and any damage
189 incurred in changing and adjusting the lines and grades of such highways, streets, ways and places to be
190 ascertained and paid by the Board as a part of the cost of the project;

191 7. Vacate or change the location of any portion of any public highway, street or other public way or
192 place and reconstruct the same at such new location as the Board deems most favorable for the project
193 and of substantially the same type and in as good condition as the original highway, streets, way or
194 place, the cost of such reconstruction and any damage incurred in vacating or changing the location
195 thereof to be ascertained and paid by the Board as a part of the cost of the project. Any public highway,
196 street or other public way or place vacated or relocated by the Board shall be vacated or relocated in the
197 manner provided by law for the vacation or relocation of public roads and any damages awarded on
198 account thereof may be paid by the Board as a part of the cost of the project;

199 8. Make reasonable regulations for the installation, construction, maintenance, repair, renewal and
200 relocation of pipes, mains, sewers, conduits, cables, wires, towers, poles and other equipment and
201 appliances herein called "public utility facilities," of the Commonwealth and of any municipality, county,
202 or other political subdivision, public utility or public service corporation owning or operating the same
203 in, on, along, over or under the project. Whenever the Board determines that it is necessary that any
204 such public utility facilities should be relocated or removed, the Commonwealth or such municipality,
205 county, political subdivision, public utility or public service corporation shall relocate or remove the
206 same in accordance with the order of the Board. The cost and expense of such relocation or removal,
207 including the cost of installing such public utility facilities in a new location or locations, and the cost
208 of any lands or any rights or interests in lands, and any other rights acquired to accomplish such
209 relocation or removal shall be ascertained by the Board.

210 On any toll project, the Board shall pay the cost and expense of relocation or removal as a part of
211 the cost of the project for those public utility facilities owned or operated by the Commonwealth or such
212 municipality, county, political subdivision, public utility or public service corporation. On all other
213 projects, under this article, the Board shall pay the cost and expense of relocation or removal as a part
214 of the cost of the project for those public utility facilities owned or operated by the Commonwealth or
215 such municipality, county, or political subdivision. The Commonwealth or such municipality, county,
216 political subdivision, public utility or public service corporation may maintain and operate such public
217 utility facilities with the necessary appurtenances, in the new location or locations, for as long a period
218 and upon the same terms and conditions as it had the right to maintain and operate such public utility
219 facilities in their former location or locations;

220 9. Acquire by the exercise of the power of eminent domain any lands, property, rights, rights-of-way,
221 franchises, easements and other property, including public lands, parks, playgrounds, reservations,
222 highways or parkways, or parts thereof or rights therein, of any municipality, county or other political
223 subdivision, deemed necessary or convenient for the construction or the efficient operation of the project
224 or necessary in the restoration, replacement or relocation of public or private property damaged or
225 destroyed.

226 The cost of such projects shall be paid solely from the proceeds of Commonwealth of Virginia Toll
227 or Transportation Contract Revenue Bonds or a combination thereof or from such proceeds and from
228 any grant or contribution which may be made thereto pursuant to the provisions of this article;

229 10. Notwithstanding any provision of this article to the contrary, the Board shall be authorized to
230 exercise the powers conferred herein, in addition to its general powers to acquire rights-of-way and to
231 construct, operate and maintain state highways, with respect to any project which the General Assembly
232 has authorized or may hereafter authorize to be financed in whole or in part through the issuance of
233 bonds of the Commonwealth pursuant to the provisions of Section 9 (c) of Article X of the Constitution
234 of Virginia; and

235 11. Enter into any agreements or take such other actions as the Board shall determine in connection
236 with applying for or obtaining any federal credit assistance, including without limitation loan guarantees
237 and lines of credit, pursuant to authorization from the United States Department of Transportation with

respect to any project included in the Commonwealth's long-range transportation plan and the approved State Transportation Improvement Program.

§ 33.1-277. Credit of Commonwealth not pledged.

A. Commonwealth of Virginia Toll Revenue Bonds issued under the provisions of this article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds herein provided therefor from tolls and revenues, from bond proceeds or earnings thereon and from any other available sources of funds. All such bonds shall state on their face that the Commonwealth of Virginia is not obligated to pay the same or the interest thereon except from the special fund provided therefor from tolls and revenues under this article, from bond proceeds or earnings thereon and from any other available sources of funds and that the faith and credit of the Commonwealth are not pledged to the payment of the principal or interest of such bonds. The issuance of such revenue bonds under the provisions of this article shall not directly or indirectly or contingently obligate the Commonwealth to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment, other than appropriate available funds derived as revenues from tolls and charges under this article or derived from bond proceeds or earnings thereon and from any other available sources of funds.

B. Commonwealth of Virginia Transportation Contract Revenue Bonds issued under the provisions of this article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds herein provided therefor (i) from revenues received pursuant to contracts with a primary highway transportation district or transportation service district or any other alternative mechanism for generation of local revenues for specific funding of a project satisfactory to the Commonwealth Transportation Board; (ii) to the extent required, from funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the county or counties in which such project or projects are located; (iii) from bond proceeds or earnings thereon; (iv) to the extent required, from other legally available revenues of the Trust Fund; and (v) from any other available source of funds. All such bonds shall state on their face that the Commonwealth of Virginia is not obligated to pay the same or the interest thereon except from revenues in clauses (i) and (iii) hereof and that the faith and credit of the Commonwealth are not pledged to the payment of the principal and interest of such bonds. The issuance of such revenue bonds under the provisions of this article shall not directly or indirectly or contingently obligate the Commonwealth to levy or to pledge any form of taxation whatever or to make any appropriation for their payment, other than to appropriate available funds derived as revenues under this article from the sources set forth in clauses (i) and (iii) hereof. Nothing in this article shall be construed to obligate the General Assembly to make any appropriation of the funds set forth in clause (ii) or (iv) hereof for payment of such bonds.

C. Commonwealth of Virginia Transportation Revenue Bonds issued under the provisions of this article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the full faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds herein provided therefor (i) from revenues received from the U.S. Route 58 Corridor Development Fund, subject to their appropriation by the General Assembly, (ii) to the extent required, from revenues legally available from the Transportation Trust Fund and (iii) to the extent required, from any other legally available funds which shall have been appropriated by the General Assembly.

D. Commonwealth of Virginia Transportation Revenue Bonds issued under this article for Category 1 projects as provided in subdivision (2) (s) of § 33.1-268 shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the faith and credit of the Commonwealth. Such bonds shall be payable solely, subject to their appropriation by the General Assembly, first from (i) revenues received from the Northern Virginia Transportation District Fund; (ii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the city or county in which the project or projects to be financed are located; (iii) to the extent required, legally available revenues of the Transportation Trust Fund; and (iv) such other funds which may be appropriated by the General Assembly.

E. Commonwealth of Virginia Transportation Program Revenue Bonds issued under this article for projects defined in subdivision (2) (t) of § 33.1-268 shall not be deemed to constitute a debt of the Commonwealth or a pledge of the faith and credit of the Commonwealth. Such bonds shall be payable solely, subject to their appropriation by the General Assembly, first from (i) any revenues received from any Set-aside Fund established by the General Assembly pursuant to § 58.1-816.1; (ii) to the extent required, revenues received pursuant to any contract with a local jurisdiction or any alternative mechanism for generation of local revenues for specific funding of a project satisfactory to the Commonwealth Transportation Board; (iii) to the extent required, funds appropriated and allocated,

329 pursuant to the highway allocation formula as provided by law, to the highway construction district in
330 which the project or projects to be financed are located or to the city or county in which the project or
331 projects to be financed are located; (iv) to the extent required, legally available revenues from the
332 Transportation Trust Fund; and (v) such other funds which may be appropriated by the General
333 Assembly.

334 F. Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes issued under this
335 article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the full
336 faith and credit of the Commonwealth, but such obligations shall be payable solely, subject to
337 appropriation by the General Assembly, (i) first from any federal highway reimbursements and any other
338 federal highway assistance received from time to time by the Commonwealth; (ii) then, at the discretion
339 of the Board, to the extent required, from legally available revenues of the Transportation Trust Fund;
340 and (iii) then, from such other funds, if any, which are designated by the General Assembly for such
341 purpose.

342 G. Commonwealth of Virginia Transportation Credit Assistance Revenue Bonds issued under the
343 provisions of this article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a
344 pledge of the full faith and credit of the Commonwealth, but such obligations shall be payable solely,
345 subject to appropriation by the General Assembly, from revenues with respect to or generated by the
346 project or projects being financed thereby and any tolls or other revenues pledged by the Board as
347 security therefor and in accordance with the applicable federal credit assistance authorized with respect
348 to such project or projects by the United States Department of Transportation.

349 H. *Commonwealth of Virginia Transportation Revenue Bonds issued under the provisions of this*
350 *article for projects as provided in subdivision (2) (v) of § 33.1-268 shall not be deemed to constitute a*
351 *debt of the Commonwealth of Virginia or a pledge of the full faith and credit of the Commonwealth, but*
352 *such bonds shall be payable solely from the funds herein provided therefor (i) from one-third of the*
353 *revenues deposited into the Commonwealth Transportation Investment Fund pursuant to § 58.1-2512; (ii)*
354 *to the extent required, from revenues legally available from the Transportation Trust Fund; and (iii) to*
355 *the extent required, from any other legally available funds.*

356 § 58.1-2511. *Distribution of certain revenues.*

357 A. *Beginning July 1, 2005, all insurance license tax revenues paid to the State Corporation*
358 *Commission pursuant to this chapter shall be deposited in the Commonwealth Transportation Investment*
359 *Fund, a special nonreverting fund created pursuant to § 58.1-2512.*

360 B. *The Commonwealth Transportation Board shall allocate and distribute the proceeds of any bonds*
361 *it is authorized to issue pursuant to subdivision 4f of § 33.1-269 and all revenues in the Fund not*
362 *needed to pay the costs of such bonds, to each highway construction district for primary transportation*
363 *projects, on a pro rata basis according to the population residing in the respective highway construction*
364 *district as compared to the total population in all highway construction districts of the Commonwealth.*
365 *The population for a highway construction district shall be determined according to the population*
366 *within the counties and cities comprising the district using the most recent decennial census figures or*
367 *the provisional population estimates as published by the Weldon Cooper Center for Public Services,*
368 *whichever is more recent at the time of distribution of such moneys.*

369 C. *The transportation projects to be funded from the revenues and bond proceeds allocated to each*
370 *highway construction district pursuant to subsection B shall be determined by the Commonwealth*
371 *Transportation Board. In determining the projects to be funded, the Commonwealth Transportation*
372 *Board shall consider traffic congestion, air quality improvement, and other mobility enhancements.*

373 § 58.1-2512. *Commonwealth Transportation Investment Fund.*

374 *There is hereby created in the Department of the Treasury a special nonreverting fund that shall be*
375 *a part of the Transportation Trust Fund and that shall be known as the Commonwealth Transportation*
376 *Investment Fund. The Fund shall consist of deposits pursuant to § 58.1-2511 A and shall include such*
377 *other funds as may be appropriated by the General Assembly from time to time and designated for this*
378 *Fund and all interest, dividends, and appreciation that may accrue thereto. Any moneys remaining in*
379 *the Fund at the end of any fiscal year shall not revert to the general fund but shall remain in the Fund.*
380 *The Fund shall be distributed and used as set forth in § 58.1-2511 B and C.*

381 **2. That the Commonwealth Transportation Board is authorized to issue bonds as follows:**

382 § 1. Title. *This act shall be known and may be cited as the "Transportation Investment Bond Act of*
383 *2005."*

384 § 2. *The Commonwealth Transportation Board is hereby authorized, by and with the consent of the*
385 *Governor, to issue, pursuant to the provisions of the State Revenue Bond Act (§ 33.1-267 et seq.), as*
386 *amended from time to time, revenue obligations of the Commonwealth to be designated "Commonwealth*
387 *of Virginia Transportation Investment Notes, Series .." The Notes shall be issued in such amounts so that*
388 *the debt service on such bonds does not exceed one-third of the amount deposited into the*
389 *Commonwealth Transportation Investment Fund created pursuant to § 58.1-2512, and further provided*
390 *that the total face amount of bonds issued in any fiscal year (excluding bond anticipation notes,*

refunding bonds, or refunding bond anticipation notes) shall not exceed two-thirds of the amount estimated to be deposited into the Commonwealth Transportation Investment Fund pursuant to § 58.1-2512 for that fiscal year (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 net proceeds of the Notes shall be allocated to each highway construction district of the Virginia Department of Transportation on a pro rata basis according to the population residing in the respective highway construction district as compared to the total population in all highway construction districts of the Commonwealth. The population for a highway construction district shall be determined according to the population within the counties and cities comprising the district, using the most recent decennial census figures or the provisional population estimates as published by the Weldon Cooper Center for Public Services, whichever is more recent at the time of distribution of such moneys. The proceeds distributed to each highway construction district shall be used exclusively for the purpose of providing funds for paying the costs incurred or to be incurred for construction or funding of transportation projects in each such district as described in § 3, including, but not limited to, environmental and engineering studies; rights-of-way acquisition; improvements to all modes of transportation; acquisition, construction and related improvements; and any financing costs and other financing expenses. Such costs may include the payment of interest on the Notes for a period during construction and not exceeding one year after completion of construction of the projects.

§ 3. The transportation projects to be funded from the proceeds of the Notes shall be determined by the Commonwealth Transportation Board. In determining the projects to be funded, the Commonwealth Transportation Board shall consider traffic congestion, air quality improvement, and other mobility enhancements.

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

§ 5. The terms and structure of each issue of the 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 limitations set forth in § 1); 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 10 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 the Notes are certificated or uncertificated, and fix the authorized denomination or denominations of the Notes and the place or places of payment of principal or purchase price of, and redemption premium, if any, and interest on the 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 the Notes shall be made payable in lawful money of the United States of America. Each issue of the 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 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 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.

§ 6. 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 to by the manual or facsimile signature of the secretary or assistant secretary of the Commonwealth Transportation Board. In the event that the 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

422 officer whose signature or a facsimile of whose signature appears on any Notes shall cease to be such
423 officer before the delivery of such Notes, such signature or facsimile signature nevertheless shall be
424 valid and sufficient for all purposes as if such officer had remained in office until such delivery.

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

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

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

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

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

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

453 § 11. The Commonwealth Transportation Board, in connection with the issuance of the Notes, shall
454 establish a fund in accordance with § 33.1-286 of the Code of Virginia, as amended, either in the state
455 treasury or with a trustee in accordance with § 33.1-283 of the Code of Virginia, as amended, which
456 shall secure and be used for the payment of the Notes to the credit of which there shall be deposited
457 such amounts, appropriated therefor by the General Assembly, as are required to pay principal or
458 purchase price of, and redemption premium, if any, and interest on the Notes, as and when due and
459 payable, (i) first from one-third of the amount deposited into the Commonwealth Transportation
460 Investment Fund pursuant to §§ 58.1-2511 and 58.1-2512; (ii) then, at the discretion of the
461 Commonwealth Transportation Board, to the extent required, from legally available revenues of the
462 Transportation Trust Fund; and (iii) then from such other funds, if any, which may be designated by the
463 General Assembly for such purpose.

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

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

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

474 3. That the tenth enactment of Chapter 1019 of the Acts of Assembly of 2000 and the tenth
475 enactment of Chapter 1044 of the Acts of Assembly of 2000 are repealed.

476 4. That no moneys distributed pursuant to this act shall be used to calculate or reduce the share
477 of federal, state, or local revenues or funds otherwise available to the localities in the counties and
478 cities participating in those programs nor shall they be used to calculate or reduce any allocation
479 of revenues or funds made pursuant to Title 33.1 of the Code of Virginia. Such share or allocation
480 of revenues or funds that shall not be reduced includes, but is not limited to, state basic aid
481 payments.

482 5. That if any clause, sentence, paragraph, section, or part of this act or the application thereof to
483 any person, entity, or circumstance is adjudged invalid by any court of competent jurisdiction,

484 such judgment shall not affect the validity of the remainder hereof but shall be confined to the
485 clause, sentence, paragraph, section, or part hereof directly involved in the controversy in which
486 such judgment shall have been rendered, and to this end the provisions of this act are severable.

INTRODUCED

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