

066228380

HOUSE BILL NO. 5048

Offered September 14, 2006

A BILL to amend and reenact §§ 15.2-2022, 15.2-2023, 15.2-2238, 15.2-2241, 15.2-2242, 15.2-2272, 15.2-2303.2, 15.2-2321, 15.2-5146, 15.2-5431.34, 17.1-238, 24.2-305, 29.1-526, 33.1-12, 33.1-23.05, 33.1-23.1, 33.1-25, 33.1-31, 33.1-32, 33.1-34, 33.1-35, 33.1-41.1, 33.1-46.1, 33.1-46.2, as presently effective and as it may become effective, 33.1-52, 33.1-53, 33.1-67 through 33.1-69, 33.1-69.1, 33.1-69.2, 33.1-75.2, 33.1-75.3, 33.1-90, 33.1-151 through 33.1-153, 33.1-155, 33.1-156, 33.1-157, 33.1-168, 33.1-175, 33.1-181, 33.1-182, 33.1-196, 33.1-205, 33.1-210, 33.1-211, 33.1-217, 33.1-219, 33.1-221, 33.1-221.1:2, 33.1-223, 33.1-223.2:3, 33.1-224, 33.1-228.1, 33.1-229, 46.2-206, 46.2-809, 46.2-873, 46.2-878.2, 46.2-931, 46.2-1104, 46.2-1156, 46.2-1222, 46.2-1223, 46.2-1227, 53.1-56, 53.1-57, 56-15, 56-258, 56-355.1, 56-458, as presently effective and as it shall become effective on January 1, 2007, 56-468.1, as presently effective and as it shall become effective on January 1, 2007, 56-468.2, 56-540, 58.1-320, 58.1-2259, and 58.1-2289 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 33.1-23.03:3.1, and to repeal §§ 15.2-3918, 33.1-23.1:1, 33.1-23.3, 33.1-23.4, 33.1-23.5:1, 33.1-44, 33.1-46, 33.1-47.1, 33.1-69.01, 33.1-70.01, 33.1-70.1, 33.1-70.2, 33.1-72.1, 33.1-75.1, 33.1-79, 33.1-82, 33.1-84 through 33.1-88, 33.1-150, 33.1-154, 33.1-210.2, 33.1-225, 33.1-225.2, 33.1-225.3, 33.1-228, and 46.2-809.1 of the Code of Virginia, relating to transportation funding, transfer of responsibility for the present state secondary highway system to counties, abolishing the state urban highway system, and establishing the Virginia Highway Bridge Fund.

Patrons—Lingamfelter and Frederick

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2022, 15.2-2023, 15.2-2238, 15.2-2241, 15.2-2242, 15.2-2272, 15.2-2303.2, 15.2-2321, 15.2-5146, 15.2-5431.34, 17.1-238, 24.2-305, 29.1-526, 33.1-12, 33.1-23.05, 33.1-23.1, 33.1-25, 33.1-31, 33.1-32, 33.1-34, 33.1-35, 33.1-41.1, 33.1-46.1, 33.1-46.2, as presently effective and as it may become effective, 33.1-52, 33.1-53, 33.1-67 through 33.1-69, 33.1-69.1, 33.1-69.2, 33.1-75.2, 33.1-75.3, 33.1-90, 33.1-151 through 33.1-153, 33.1-155, 33.1-156, 33.1-157, 33.1-168, 33.1-175, 33.1-181, 33.1-182, 33.1-196, 33.1-205, 33.1-210, 33.1-211, 33.1-217, 33.1-219, 33.1-221, 33.1-221.1:2, 33.1-223, 33.1-223.2:3, 33.1-224, 33.1-228.1, 33.1-229, 46.2-206, 46.2-809, 46.2-873, 46.2-878.2, 46.2-931, 46.2-1104, 46.2-1156, 46.2-1222, 46.2-1223, 46.2-1227, 53.1-56, 53.1-57, 56-15, 56-258, 56-355.1, 56-458, as presently effective and as it shall become effective on January 1, 2007, 56-468.1, as presently effective and as it shall become effective on January 1, 2007, 56-468.2, 56-540, 58.1-320, 58.1-2259, and 58.1-2289 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 33.1-23.03:3.1 as follows:

§ 15.2-2022. Counties may adopt ordinance regulating tracking of mud and debris upon highways.

Notwithstanding the provisions of § 15.2-2000 A, any county (i) whose roads are not a part of the state secondary highway system, (ii) which has the urban county executive form of government, or (iii) is adjacent to a county which has the urban county executive form of government may, by ordinance, regulate the tracking of mud and debris upon the highways and secondary highways within the county boundaries.

§ 15.2-2023. Expenditure of county revenues for certain roads.

Any county may expend so much of its general revenues as its governing body by majority vote of its elected members deems appropriate for the construction and repair of public roads not in the state highway system or the secondary system and may own and operate the properties and equipment necessary to carry out the provisions of this section.

Any county revenues expended for such roads shall not be considered to be highway funds which are made available for highway purposes pursuant to § 33.1-23.1 and shall not diminish funds paid to counties under § 33.1-23.1.

§ 15.2-2238. Authority of counties under § 33.1-229 et seq. not affected.

The provisions of this article shall not affect the exercise of the authority contained in § 33.1-229 et seq., by counties that have withdrawn their roads from the over secondary system of state highways within their boundaries.

§ 15.2-2241. Mandatory provisions of a subdivision ordinance.

A subdivision ordinance shall include reasonable regulations and provisions that apply to or provide:

1. For plat details which shall meet the standard for plats as adopted under § 42.1-82 of the Virginia

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HB5048

59 Public Records Act (§ 42.1-76 et seq.);

60 2. For the coordination of streets within and contiguous to the subdivision with other existing or
61 planned streets within the general area as to location, widths, grades and drainage, including, for
62 ordinances and amendments thereto adopted on or after January 1, 1990, for the coordination of such
63 streets with existing or planned streets in existing or future adjacent or contiguous to adjacent
64 subdivisions;

65 3. For adequate provisions for drainage and flood control and other public purposes, and for light
66 and air, and for identifying soil characteristics;

67 4. For the extent to which and the manner in which streets shall be graded, graveled or otherwise
68 improved and water and storm and sanitary sewer and other public utilities or other community facilities
69 are to be installed;

70 5. For the acceptance of dedication for public use of any right-of-way located within any subdivision
71 or section thereof, which has constructed or proposed to be constructed within the subdivision or section
72 thereof, any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, waterline as part of
73 a public system or other improvement dedicated for public use, and maintained by the locality, the
74 Commonwealth, or other public agency, and for the provision of other site-related improvements
75 required by local ordinances for vehicular ingress and egress, including traffic signalization and control,
76 for public access streets, for structures necessary to ensure stability of critical slopes, and for storm
77 water management facilities, financed or to be financed in whole or in part by private funds only if the
78 owner or developer (i) certifies to the governing body that the construction costs have been paid to the
79 person constructing such facilities; (ii) furnishes to the governing body a certified check or cash escrow
80 in the amount of the estimated costs of construction or a personal, corporate or property bond, with
81 surety satisfactory to the governing body or its designated administrative agency, in an amount sufficient
82 for and conditioned upon the construction of such facilities, or a contract for the construction of such
83 facilities and the contractor's bond, with like surety, in like amount and so conditioned; or (iii) furnishes
84 to the governing body a bank or savings institution's letter of credit on certain designated funds
85 satisfactory to the governing body or its designated administrative agency as to the bank or savings
86 institution, the amount and the form. The amount of such certified check, cash escrow, bond, or letter of
87 credit shall not exceed the total of the estimated cost of construction based on unit prices for new public
88 or private sector construction in the locality and a reasonable allowance for estimated administrative
89 costs, inflation, and potential damage to existing roads or utilities, which shall not exceed 25 percent of
90 the estimated construction costs. "Such facilities," as used in this section, means those facilities
91 specifically provided for in this section.

92 If a developer records a final plat which may be a section of a subdivision as shown on an approved
93 preliminary plat and furnishes to the governing body a certified check, cash escrow, bond, or letter of
94 credit in the amount of the estimated cost of construction of the facilities to be dedicated within said
95 section for public use and maintained by the locality, the Commonwealth, or other public agency, the
96 developer shall have the right to record the remaining sections shown on the preliminary plat for a
97 period of five years from the recordation date of the first section, or for such longer period as the local
98 commission or other agent may, at the approval, determine to be reasonable, taking into consideration
99 the size and phasing of the proposed development, subject to the terms and conditions of this subsection
100 and subject to engineering and construction standards and zoning requirements in effect at the time that
101 each remaining section is recorded. In the event a governing body of a county, ~~wherein the highway~~
102 ~~system is maintained by the Department of Transportation,~~ has accepted the dedication of a road for
103 public use and such road due to factors other than its quality of construction is not acceptable into the
104 ~~county's secondary highway system of state highways,~~ then such governing body may, if so provided by
105 its subdivision ordinance, require the subdivider or developer to furnish the county with a maintenance
106 and indemnifying bond, with surety satisfactory to the governing body or its designated administrative
107 agency, in an amount sufficient for and conditioned upon the maintenance of such road until such time
108 as it is accepted into the ~~county's secondary highway system of state highways.~~ In lieu of such bond, the
109 governing body or its designated administrative agency may accept a bank or savings institution's letter
110 of credit on certain designated funds satisfactory to the governing body or its designated administrative
111 agency as to the bank or savings institution, the amount and the form, or accept payment of a negotiated
112 sum of money sufficient for and conditioned upon the maintenance of such road until such time as it is
113 accepted into the ~~county's secondary highway system of state highways~~ and assume the subdivider's or
114 developer's liability for maintenance of such road. "Maintenance of such road" as used in this section,
115 means maintenance of the streets, curb, gutter, drainage facilities, utilities or other street improvements,
116 including the correction of defects or damages and the removal of snow, water or debris, so as to keep
117 such road reasonably open for public usage;

118 6. For conveyance of common or shared easements to franchised cable television operators furnishing
119 cable television and public service corporations furnishing cable television, gas, telephone and electric
120 service to the proposed subdivision. Once a developer conveys an easement that will permit electric,

121 cable or telephone service to be furnished to a subdivision, the developer shall, within 30 days after
 122 written request by a cable television operator or telephone service provider, grant an easement to that
 123 cable television operator or telephone service provider for the purpose of providing cable television and
 124 communications services to that subdivision, which easement shall be geographically coextensive with
 125 the electric service easement, or if only a telephone or cable service easement has been granted, then
 126 geographically coextensive with that telephone or cable service easement; however, the developer and
 127 franchised cable television operator or telephone service provider may mutually agree on an alternate
 128 location for an easement. If the final subdivision plat is recorded and does not include conveyance of a
 129 common or shared easement as provided herein, the local planning commission or agent designated by
 130 the governing body to review and act on submitted subdivision plats shall not be responsible to enforce
 131 the requirements of this subdivision;

132 7. For monuments of specific types to be installed establishing street and property lines;

133 8. That unless a plat is filed for recordation within six months after final approval thereof or such
 134 longer period as may be approved by the governing body, such approval shall be withdrawn and the plat
 135 marked void and returned to the approving official; however, in any case where construction of facilities
 136 to be dedicated for public use has commenced pursuant to an approved plan or permit with surety
 137 approved by the governing body or its designated administrative agency, or where the developer has
 138 furnished surety to the governing body or its designated administrative agency by certified check, cash
 139 escrow, bond, or letter of credit in the amount of the estimated cost of construction of such facilities, the
 140 time for plat recordation shall be extended to one year after final approval or to the time limit specified
 141 in the surety agreement approved by the governing body or its designated administrative agency,
 142 whichever is greater;

143 9. For the administration and enforcement of such ordinance, not inconsistent with provisions
 144 contained in this chapter, and specifically for the imposition of reasonable fees and charges for the
 145 review of plats and plans, and for the inspection of facilities required by any such ordinance to be
 146 installed; such fees and charges shall in no instance exceed an amount commensurate with the services
 147 rendered taking into consideration the time, skill and administrator's expense involved. All such charges
 148 heretofore made are hereby validated;

149 10. For reasonable provisions permitting a single division of a lot or parcel for the purpose of sale or
 150 gift to a member of the immediate family of the property owner in accordance with the provisions of
 151 § 15.2-2244; and

152 11. For the periodic partial and final complete release of any bond, escrow, letter of credit, or other
 153 performance guarantee required by the governing body under this section in accordance with the
 154 provisions of § 15.2-2245.

155 § 15.2-2242. Optional provisions of a subdivision ordinance.

156 A subdivision ordinance may include:

157 1. Provisions for variations in or exceptions to the general regulations of the subdivision ordinance in
 158 cases of unusual situations or when strict adherence to the general regulations would result in substantial
 159 injustice or hardship.

160 2. A requirement (i) for the furnishing of a preliminary opinion from the applicable health official
 161 regarding the suitability of a subdivision for installation of subsurface sewage disposal systems where
 162 such method of sewage disposal is to be utilized in the development of a subdivision and (ii) that all
 163 buildings constructed on lots resulting from subdivision of a larger tract that abuts or adjoins a public
 164 water or sewer system or main shall be connected to that public water or sewer system or main subject
 165 to the provisions of § 15.2-2121.

166 3. A requirement that, in the event streets in a subdivision will not be constructed to meet the
 167 standards necessary for inclusion in the *county's* secondary *highway* system of ~~state highways~~ or for
 168 state street maintenance moneys paid to municipalities, the subdivision plat and all approved deeds of
 169 subdivision, or similar instruments, must contain a statement advising that the streets in the subdivision
 170 do not meet ~~state~~ standards *established by the Virginia Department of Transportation* and will not be
 171 maintained by the Department of Transportation or the localities enacting the ordinances. Grantors of
 172 any subdivision lots to which such statement applies must include the statement on each deed of
 173 conveyance thereof. However, localities in their ordinances may establish minimum standards for
 174 construction of streets that will not be built to ~~state~~ standards *established by the Virginia Department of*
 175 *Transportation*.

176 For streets constructed or to be constructed, as provided for in this subsection, a subdivision
 177 ordinance may require that the same procedure be followed as that set forth in provision 5 of
 178 § 15.2-2241. Further, the subdivision ordinance may provide that the developer's financial commitment
 179 shall continue until such time as the local government releases such financial commitment in accordance
 180 with provision 11 of § 15.2-2241.

181 4. Reasonable provision for the voluntary funding of off-site road improvements and reimbursements

182 of advances by the governing body. If a subdivider or developer makes an advance of payments for or
183 construction of reasonable and necessary road improvements located outside the property limits of the
184 land owned or controlled by him, the need for which is substantially generated and reasonably required
185 by the construction or improvement of his subdivision or development, and such advance is accepted,
186 the governing body may agree to reimburse the subdivider or developer from such funds as the
187 governing body may make available for such purpose from time to time for the cost of such advance
188 together with interest, which shall be excludable from gross income for federal income tax purposes, at
189 a rate equal to the rate of interest on bonds most recently issued by the governing body on the
190 following terms and conditions:

191 a. The governing body shall determine or confirm that the road improvements were substantially
192 generated and reasonably required by the construction or improvement of the subdivision or
193 development and shall determine or confirm the cost thereof, on the basis of a study or studies
194 conducted by qualified traffic engineers and approved and accepted by the subdivider or developer.

195 b. The governing body shall prepare, or cause to be prepared, a report accepted and approved by the
196 subdivider or developer, indicating the governmental services required to be furnished to the subdivision
197 or development and an estimate of the annual cost thereof for the period during which the
198 reimbursement is to be made to the subdivider or developer.

199 c. The governing body may make annual reimbursements to the subdivider or developer from funds
200 made available for such purpose from time to time, including but not limited to real estate taxes
201 assessed and collected against the land and improvements on the property included in the subdivision or
202 development in amounts equal to the amount by which such real estate taxes exceed the annual cost of
203 providing reasonable and necessary governmental services to such subdivision or development.

204 5. In a county having the urban county executive form of government, in any city located within or
205 adjacent thereto, or any county adjacent thereto or a town located within such county, in any county
206 with a population between 57,000 and 57,450, or in any county with a population between 60,000 and
207 63,000, and in any city with a population between 140,000 and 160,000, provisions for payment by a
208 subdivider or developer of land of a pro rata share of the cost of reasonable and necessary road
209 improvements, located outside the property limits of the land owned or controlled by him but serving an
210 area having related traffic needs to which his subdivision or development will contribute, to reimburse
211 an initial subdivider or developer who has advanced such costs or constructed such road improvements.
212 Such ordinance may apply to road improvements constructed after July 1, 1988, in a county having the
213 urban county executive form of government; in a city located within or adjacent to a county having the
214 urban county executive form of government, or in a county adjacent to a county having the urban
215 county executive form of government or town located within such county and in any county with a
216 population between 57,000 and 57,450, or in any county with a population between 60,000 and 63,000,
217 such ordinance may only apply to road improvements constructed after the effective date of such
218 ordinance.

219 Such provisions shall provide for the adoption of a pro rata reimbursement plan which shall include
220 reasonable standards to identify the area having related traffic needs, to determine the total estimated or
221 actual cost of road improvements required to adequately serve the area when fully developed in
222 accordance with the comprehensive plan or as required by proffered conditions, and to determine the
223 proportionate share of such costs to be reimbursed by each subsequent subdivider or developer within
224 the area, with interest (i) at the legal rate or (ii) at an inflation rate prescribed by a generally accepted
225 index of road construction costs, whichever is less.

226 For any subdivision ordinance adopted pursuant to provision 5 of this section after February 1, 1993,
227 no such payment shall be assessed or imposed upon a subsequent developer or subdivider if (i) prior to
228 the adoption of a pro rata reimbursement plan the subsequent subdivider or developer has proffered
229 conditions pursuant to § 15.2-2303 for offsite road improvements and such proffered conditions have
230 been accepted by the locality, (ii) the locality has assessed or imposed an impact fee on the subsequent
231 development or subdivision pursuant to Article 8 (§ 15.2-2317 et seq.) of Chapter 22, or (iii) the
232 subsequent subdivider or developer has received final site plan, subdivision plan, or plan of development
233 approval from the locality prior to the adoption of a pro rata reimbursement plan for the area having
234 related traffic needs.

235 The amount of the costs to be reimbursed by a subsequent developer or subdivider shall be
236 determined before or at the time the site plan or subdivision is approved. The ordinance shall specify
237 that such costs are to be collected at the time of the issuance of a temporary or final certificate of
238 occupancy or functional use and occupancy within the development, whichever shall come first. The
239 ordinance also may provide that the required reimbursement may be paid (i) in lump sum, (ii) by
240 agreement of the parties on installment at a reasonable rate of interest or rate of inflation, whichever is
241 less, for a fixed number of years, or (iii) on such terms as otherwise agreed to by the initial and
242 subsequent subdividers and developers.

243 Such ordinance provisions may provide that no certificate of occupancy shall be issued to a

244 subsequent developer or subdivider until (i) the initial developer certifies to the locality that the
 245 subsequent developer has made the required reimbursement directly to him as provided above or (ii) the
 246 subsequent developer has deposited the reimbursement amount with the locality for transfer forthwith to
 247 the initial developer.

248 6. Provisions for establishing and maintaining access to solar energy to encourage the use of solar
 249 heating and cooling devices in new subdivisions. The provisions shall be applicable to a new subdivision
 250 only when so requested by the subdivider.

251 7. Provisions, in any town with a population between 14,500 and 15,000, granting authority to the
 252 governing body, in its discretion, to use funds escrowed pursuant to provision 5 of § 15.2-2241 for
 253 improvements similar to but other than those for which the funds were escrowed, if the governing body
 254 (i) obtains the written consent of the owner or developer who submitted the escrowed funds; (ii) finds
 255 that the facilities for which funds are escrowed are not immediately required; (iii) releases the owner or
 256 developer from liability for the construction or for the future cost of constructing those improvements
 257 for which the funds were escrowed; and (iv) accepts liability for future construction of these
 258 improvements. If such town fails to locate such owner or developer after making a reasonable attempt to
 259 do so, the town may proceed as if such consent had been granted. In addition, the escrowed funds to be
 260 used for such other improvement may only come from an escrow that does not exceed a principal
 261 amount of \$30,000 plus any accrued interest and shall have been escrowed for at least five years.

262 8. (Effective until July 1, 2007) Provisions for clustering of single-family dwellings and preservation
 263 of open space developments, which provisions shall comply with the requirements and procedures set
 264 forth in subdivision A 12 of § 15.2-2286.

265 8. (Effective July 1, 2007) Provisions for clustering of single-family dwellings and preservation of
 266 open space developments, which provisions shall comply with the requirements and procedures set forth
 267 in § 15.2-2286.1.

268 9. Provisions requiring that where a lot being subdivided or developed fronts on an existing street,
 269 and adjacent property on either side has an existing sidewalk, a locality may require the dedication of
 270 land for, and construction of, a sidewalk on the property being subdivided or developed, to connect to
 271 the existing sidewalk. Nothing in this paragraph shall alter in any way any authority of localities or the
 272 Department of Transportation to require sidewalks on any newly constructed street or highway.

273 10. Provisions for requiring and considering Phase I environmental site assessments based on the
 274 anticipated use of the property proposed for the subdivision or development that meet generally accepted
 275 national standards for such assessments, such as those developed by the American Society for Testing
 276 and Materials, and Phase II environmental site assessments, that also meet accepted national standards,
 277 such as, but not limited to, those developed by the American Society for Testing and Materials, if the
 278 locality deems such to be reasonably necessary, based on findings in the Phase I assessment, and in
 279 accordance with regulations of the United States Environmental Protection Agency and the American
 280 Society for Testing and Materials. A reasonable fee may be charged for the review of such
 281 environmental assessments. Such fees shall not exceed an amount commensurate with the services
 282 rendered, taking into consideration the time, skill, and administrative expense involved in such review.

283 11. Provisions for requiring disclosure and remediation of contamination and other adverse
 284 environmental conditions of the property prior to approval of subdivision and development plans.

285 § 15.2-2272. Vacation of plat after sale of lot.

286 In cases where any lot has been sold, the plat or part thereof may be vacated according to either of
 287 the following methods:

288 1. By instrument in writing agreeing to the vacation signed by all the owners of lots shown on the
 289 plat and also signed on behalf of the governing body of the locality in which the land shown on the plat
 290 or part thereof to be vacated lies for the purpose of showing the approval of the vacation by the
 291 governing body. In cases involving drainage easements or street rights-of-way where the vacation does
 292 not impede or alter drainage or access for any lot owners other than those lot owners immediately
 293 adjoining or contiguous to the vacated area, the governing body shall only be required to obtain the
 294 signatures of the lot owners immediately adjoining or contiguous to the vacated area. The word
 295 "owners" shall not include lien creditors except those whose debts are secured by a recorded deed of
 296 trust or mortgage and shall not include any consort of an owner. The instrument of vacation shall be
 297 acknowledged in the manner of a deed and filed for record in the clerk's office of any court in which
 298 the plat is recorded.

299 2. By ordinance of the governing body of the locality in which the land shown on the plat or part
 300 thereof to be vacated lies on motion of one of its members or on application of any interested person.
 301 The ordinance shall not be adopted until after notice has been given as required by § 15.2-2204. The
 302 notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the
 303 meeting of the governing body at which the adoption of the ordinance will be voted upon. Any person
 304 may appear at the meeting for the purpose of objecting to the adoption of the ordinance. An appeal

305 from the adoption of the ordinance may be filed within thirty days with the circuit court having
306 jurisdiction of the land shown on the plat or part thereof to be vacated. Upon appeal the court may
307 nullify the ordinance if it finds that the owner of any lot shown on the plat will be irreparably damaged.
308 If no appeal from the adoption of the ordinance is filed within the time above provided or if the
309 ordinance is upheld on appeal, a certified copy of the ordinance of vacation may be recorded in the
310 clerk's office of any court in which the plat is recorded.

311 Roads within ~~the~~ *any county's* secondary system of highways may be vacated under either of the
312 preceding methods and the action will constitute abandonment of the road, provided the land shown on
313 the plat or part thereof to be vacated has been the subject of a rezoning or special exception application
314 approved following public hearings required by § 15.2-2204 and provided the Commonwealth
315 Transportation Commissioner or his agent is notified in writing prior to the public hearing, and provided
316 further that the vacation is necessary in order to implement a proffered condition accepted by the
317 governing body pursuant to §§ 15.2-2297, 15.2-2298 or 15.2-2303 or to implement a condition of
318 special exception approval. All abandonments of roads within the secondary system of highways sought
319 to be effected according to either of the preceding methods before July 1, 1994, are hereby validated,
320 notwithstanding any defects or deficiencies in the proceeding; however, property rights which have
321 vested subsequent to the attempted vacation are not impaired by such validation. The manner of
322 reversion shall not be affected by this section.

323 § 15.2-2303.2. Proffered cash payments and expenditures.

324 A. The governing body of any locality accepting cash payments voluntarily proffered on or after July
325 1, 2005, pursuant to § 15.2-2298, 15.2-2303 or 15.2-2303.1 shall, within seven years of receiving full
326 payment of all cash proffered pursuant to an approved rezoning application, begin, or cause to begin (i)
327 construction, (ii) site work, (iii) engineering, (iv) right-of-way acquisition, (v) surveying, or (vi) utility
328 relocation on the improvements for which the cash payments were proffered. A locality that does not
329 comply with the above requirement, or does not begin alternative improvements as provided for in
330 subsection C, shall forward the amount of the proffered cash payments to the Commonwealth
331 Transportation Board no later than December 31 following the fiscal year in which such forfeiture
332 occurred for direct allocation to the secondary system construction program or the urban system
333 construction program for the locality in which the proffered cash payments were collected. The funds to
334 which any locality may be entitled under the provisions of Title 33.1 for construction, improvement, or
335 maintenance of primary, secondary, or urban roads shall not be diminished by reason of any funds
336 remitted pursuant to this subsection by such locality, regardless of whether such contributions are
337 matched by state or federal funds.

338 B. The governing body of any locality eligible to accept any proffered cash payments pursuant to
339 § 15.2-2298, 15.2-2303 or 15.2-2303.1 shall, for each fiscal year beginning with the fiscal year 2007, (i)
340 include in its capital improvement program created pursuant to § 15.2-2239, or as an appendix thereto,
341 the amount of all proffered cash payments received during the most recent fiscal year for which a report
342 has been filed pursuant to subsection D, and (ii) include in its annual capital budget the amount of
343 proffered cash payments projected to be used for expenditures or appropriated for capital improvements
344 in the ensuing year.

345 C. Regardless of the date of rezoning approval, unless prohibited by the proffer agreement accepted
346 by the governing body of a locality pursuant to § 15.2-2298, 15.2-2303, or 15.2-2303.1, a locality may
347 utilize any cash payments proffered for any road improvement or any transportation improvement that is
348 incorporated into the capital improvements program as its matching contribution under § 33.1-23.05. For
349 purposes of this section, "road improvement" includes construction of new roads or improvement or
350 expansion of existing roads as required by applicable construction standards of the Virginia Department
351 of Transportation to meet increased demand attributable to new development. For purposes of this
352 section, "transportation improvement" means any real or personal property acquired, constructed,
353 improved, or used for constructing, improving, or operating any (i) public mass transit system or (ii)
354 highway, or portion or interchange thereof, including parking facilities located within a district created
355 pursuant to this title. Such improvements shall include, without limitation, public mass transit systems,
356 public highways, and all buildings, structures, approaches, and facilities thereof and appurtenances
357 thereto, rights-of-way, bridges, tunnels, stations, terminals, and all related equipment and fixtures.

358 Regardless of the date of rezoning approval, unless prohibited by the proffer agreement accepted by
359 the governing body of a locality pursuant to § 15.2-2298, 15.2-2303, or 15.2-2303.1, a locality may
360 utilize any cash payments proffered for capital improvements for alternative improvements of the same
361 category within the locality in the vicinity of the improvements for which the cash payments were
362 originally made. Prior to utilization of such cash payments for the alternative improvements, the
363 governing body of the locality shall give at least 30 days' written notice of the proposed alternative
364 improvements to the entity who paid such cash payment mailed to the last known address of such entity,
365 or if proffer payment records no longer exist, then to the original zoning applicant, and conduct a public
366 hearing on such proposal advertised as provided in subsection F of § 15.2-1427. The governing body of

367 the locality prior to the use of such cash payments for alternative improvements shall, following such
 368 public hearing, find: (i) the improvements for which the cash payments were proffered cannot occur in a
 369 timely manner; (ii) the alternative improvements are within the vicinity of the proposed improvements
 370 for which the cash payments were proffered; and (iii) the alternative improvements are in the public
 371 interest. Notwithstanding the provisions of the Virginia Public Procurement Act, the governing body
 372 may negotiate and award a contract without competition to an entity that is constructing road
 373 improvements pursuant to a proffered zoning condition in order to expand the scope of the road
 374 improvements by utilizing cash proffers of others or other available locally generated funds. The local
 375 governing body shall adopt a resolution stating the basis for awarding the construction contract to extend
 376 the scope of the road improvements. All road improvements to be included in the state primary or a
 377 county's secondary highway system of highways must conform to the adopted standards of the Virginia
 378 Department of Transportation.

379 D. The governing body of any locality with a population in excess of 3,500 persons accepting a cash
 380 payment voluntarily proffered pursuant to § 15.2-2298, 15.2-2303 or 15.2-2303.1 shall within three
 381 months of the close of each fiscal year, beginning in fiscal year 2002 and for each fiscal year thereafter,
 382 report to the Commission on Local Government the following information for the preceding fiscal year:

- 383 1. The aggregate dollar amount of proffered cash payments collected by the locality;
- 384 2. The estimated aggregate dollar amount of proffered cash payments that have been pledged to the
 385 locality and which pledges are not conditioned on any event other than time; and
- 386 3. The total dollar amount of proffered cash payments expended by the locality, and the aggregate
 387 dollar amount expended in each of the following categories:

388	Schools	\$_____	
389	Road and other Transportation Improvements		\$_____
390	Fire and Rescue/Public Safety	\$_____	
391	Libraries	\$_____	
392	Parks, Recreation, and Open Space		\$_____
393	Water and Sewer Service Extension		\$_____
394	Community Centers	\$_____	
395	Stormwater Management	\$_____	
396	Special Needs Housing	\$_____	
397	Affordable Housing	\$_____	
398	Miscellaneous	\$_____	
399	Total dollar amount expended		\$_____

400 E. The governing body of any locality with a population in excess of 3,500 persons eligible to accept
 401 any proffered cash payments pursuant to § 15.2-2298, 15.2-2303 or 15.2-2303.1 but that did not accept
 402 any proffered cash payments during the preceding fiscal year shall within three months of the close of
 403 each fiscal year, beginning in 2001 and for each fiscal year thereafter, so notify the Commission on
 404 Local Government.

405 F. The Commission on Local Government shall by November 30, 2001, and by November 30 of
 406 each fiscal year thereafter, prepare and make available to the public and the chairmen of the Senate
 407 Local Government Committee and the House Counties, Cities and Towns Committee an annual report
 408 containing the information made available to it pursuant to subsections D and E.

409 § 15.2-2321. Adoption of road improvements program.

410 Prior to adopting a system of impact fees, the locality shall conduct an assessment of road
 411 improvement needs within an impact fee service area and in the locality and shall adopt a road
 412 improvements plan for the area showing the new roads proposed to be constructed and the existing
 413 roads to be improved or expanded and the schedule for undertaking such construction, improvement or
 414 expansion. The road improvements plan shall be adopted as an amendment to the required
 415 comprehensive plan and shall be incorporated into the capital improvements program ~~or, in the case of~~
 416 ~~the counties where applicable, the six-year plan for secondary road construction pursuant to~~
 417 ~~§ 33-1-70.01.~~

418 The locality shall adopt the road improvements plan after holding a duly advertised public hearing.
 419 The public hearing notice shall identify the impact fee service area or areas to be designated, and shall
 420 include a summary of the needs assessment and the assumptions upon which the assessment is based,
 421 the proposed amount of the impact fee, and information as to how a copy of the complete study may be
 422 examined. A copy of the complete study shall be available for public inspection and copying at
 423 reasonable times prior to the public hearing.

424 The locality at a minimum shall include the following items in assessing road improvement needs
 425 and preparing a road improvements plan:

- 426 1. An analysis of the existing capacity, current usage and existing commitments to future usage of

427 existing roads, as indicated by (i) current valid building permits outstanding, (ii) approved conditional
 428 rezonings, special exceptions, and special use permits, and (iii) approved site plans and subdivision plats.
 429 If the current usage and commitments exceed the existing capacity of the roads, the locality also shall
 430 determine the costs of improving the roads to meet the demand. The analysis shall include a plan to
 431 fund the current usages and commitments that exceed the existing capacity of the roads.

432 2. The projected need for and costs of construction of new roads or improvement or expansion of
 433 existing roads attributable in whole or in part to projected new development. Road improvement needs
 434 shall be projected for the impact fee service area when fully developed in accord with the
 435 comprehensive plan and, if full development is projected to occur more than ten years in the future, at
 436 the end of a ten-year period. The assumptions with regard to land uses, densities, intensities, and
 437 population upon which road improvement projections are based shall be presented.

438 3. The total number of new service units projected for the impact fee service area when fully
 439 developed and, if full development is projected to occur more than ten years in the future, at the end of
 440 a ten-year period. A "service unit" is a standardized measure of traffic use or generation. The locality
 441 shall develop a table or method for attributing service units to various types of development and land
 442 use, including but not limited to residential, commercial and industrial uses. The table shall be based
 443 upon the ITE manual (published by the Institute of Transportation Engineers) or locally conducted trip
 444 generation studies.

445 § 15.2-5146. Use of state land.

446 The Commonwealth hereby consents to the use of all lands above or under water and owned or
 447 controlled by it which are necessary for the construction, improvement, operation or maintenance of any
 448 stormwater control system or water or waste system; except that the use of any portion between the
 449 right-of-way limits of any primary ~~or secondary~~ highway *system component* in this Commonwealth shall
 450 be subject to the approval of the Commonwealth Transportation Commissioner.

451 § 15.2-5431.34. Use of state land.

452 The Commonwealth hereby consents to the use of all lands above or under water and owned or
 453 controlled by it which are necessary for the construction, improvement, operation or maintenance of any
 454 project; except that the use of any portion between the right-of-way limits of any primary ~~or secondary~~
 455 highway *system component* in this Commonwealth shall be subject to the approval of the
 456 Commonwealth Transportation Commissioner.

457 § 17.1-238. State highway plat book.

458 A loose-leaf book known as "state highway plat book," which shall be provided by the Department
 459 of Transportation, shall be installed in the circuit court clerk's office of each county of this
 460 Commonwealth and in the clerk's office of the circuit court of any city wherein the Department of
 461 Transportation has acquired any interest in land, and all highway plats pertaining to the primary ~~and~~
 462 secondary highway ~~systems~~ *system*, and all plats in connection therewith, shall be filed therein by the
 463 clerk. The clerk shall note on each recorded deed relating to such plats and on the margin of the page of
 464 the deed book, wherein such deed is recorded, the numbers of the state highway plat book and page
 465 wherein such plats are filed. The clerk so filing the plats and so noting the same shall receive a fee of
 466 five dollars. All plats filed prior to July 1, 1950, in such state highway plat book ~~be and the same~~ are
 467 hereby validated.

468 § 24.2-305. Composition of election districts and precincts.

469 A. Each election district and precinct shall be composed of compact and contiguous territory and
 470 shall have clearly defined and clearly observable boundaries.

471 B. A "clearly observable boundary" shall include (i) any named road or street, (ii) any road or
 472 highway which is a part of the federal, state primary, or ~~state~~ *any county's* secondary road system, (iii)
 473 any river, stream, or drainage feature shown as a polygon boundary on the TIGER/line files of the
 474 United States Bureau of the Census, or (iv) any other natural or constructed or erected permanent
 475 physical feature which is shown on an official map issued by the Virginia Department of Transportation,
 476 on a United States Geological Survey topographical map, or as a polygon boundary on the TIGER/line
 477 files of the United States Bureau of the Census. No property line or subdivision boundary shall be
 478 deemed to be a clearly observable boundary unless it is marked by a permanent physical feature that is
 479 shown on an official map issued by the Virginia Department of Transportation, on a United States
 480 Geological Survey topographical map, or as a polygon boundary on the TIGER/line files of the United
 481 States Bureau of the Census.

482 § 29.1-526. Counties and cities may prohibit hunting or trapping near state primary and county
 483 secondary highways.

484 The governing body of any county or city may prohibit by ordinance the hunting, with a firearm, of
 485 any game bird or game animal while the hunting is on or within 100 yards of any *state* primary or
 486 *county* secondary highway in such county or city and may provide that any violation of the ordinance
 487 shall be a Class 3 misdemeanor. In addition, the governing body of any county or city may prohibit by
 488 ordinance the trapping of any game animal or furbearer within fifty feet of the shoulder of any primary

489 or secondary highway in the county or city and may provide that any violation of the ordinance shall be
 490 a Class 3 misdemeanor. No such ordinance shall prohibit such trapping where the written permission of
 491 the landowner is obtained. It shall be the duty of the governing body enacting an ordinance under the
 492 provisions of this section to notify the Director by registered mail no later than May 1 of the year in
 493 which the ordinance is to take effect. If the governing body fails to make such notice, the ordinance
 494 shall be unenforceable.

495 For the purpose of this section, the terms "hunt" and "trap" shall not include the necessary crossing
 496 of highways for the bona fide purpose of going into or leaving a lawful hunting or trapping area.

497 § 33.1-12. General powers and duties of Board, etc.; definitions.

498 The Commonwealth Transportation Board shall be vested with the following powers and shall have
 499 the following duties:

500 (1) Location of routes. To locate and establish the routes to be followed by the roads comprising
 501 ~~systems~~ *the Interstate Highway System and the primary system* of state highways between the points
 502 designated in the establishment of such systems.

503 (2) Construction and maintenance contracts and activities related to passenger and freight rail and
 504 public transportation.

505 (a) To let all contracts to be administered by the Virginia Department of Transportation or the
 506 Department of Rail and Public Transportation for the construction, maintenance, and improvement of the
 507 roads comprising systems of state highways and for all activities related to passenger and freight rail and
 508 public transportation in excess of \$2 million. The Commonwealth Transportation Commissioner shall
 509 have authority to let all Virginia Department of Transportation-administered contracts for highway
 510 construction, maintenance, and improvements up to \$2 million in value. The Director of the Department
 511 of Rail and Public Transportation shall have the authority to let contracts for passenger and freight rail
 512 and public transportation improvements up to \$2 million in value. The Commonwealth Transportation
 513 Commissioner is authorized to enter into agreements with localities, authorities, and transportation
 514 districts to administer projects and to allow those localities, authorities, and transportation districts to let
 515 contracts for highway construction, maintenance, and improvements within their jurisdictions. The
 516 Director of the Department of Rail and Public Transportation is authorized to enter into agreements with
 517 localities, authorities, and transportation districts to administer projects and to allow those localities,
 518 authorities, and transportation districts to let contracts for passenger and freight rail and public
 519 transportation activities within their jurisdictions. The Commonwealth Transportation Commissioner and
 520 the Director of the Department of Rail and Public Transportation shall report on their respective
 521 transportation contracting activities at least quarterly to the Board.

522 (b) The Commonwealth Transportation Board may award contracts for the construction of
 523 transportation projects on a design-build basis. These contracts may be awarded after a written
 524 determination is made by the Commonwealth Transportation Commissioner or the Director of the
 525 Department of Rail and Public Transportation, pursuant to objective criteria previously adopted by the
 526 Board regarding the use of design-build, that delivery of the projects must be expedited and that it is not
 527 in the public interest to comply with the design and construction contracting procedures normally
 528 followed. Such objective criteria will include requirements for prequalification of contractors and
 529 competitive bidding processes. These contracts shall be of such size and scope to encourage maximum
 530 competition and participation by agency prequalified and otherwise qualified contractors. Such
 531 determination shall be retained for public inspection in the official records of the Department of
 532 Transportation or the Department of Rail and Public Transportation, as the case may be, and shall
 533 include a description of the nature and scope of the project and the reasons for the Commissioner's or
 534 Director's determination that awarding a design-build contract will best serve the public interest. The
 535 provisions of this section shall supersede contrary provisions of subsection D of § 2.2-4303 and
 536 § 2.2-4306.

537 (c) For transportation construction projects valued in excess of \$100 million, the Commonwealth
 538 Transportation Board shall require that a financial plan be prepared. This plan shall include, but not be
 539 limited to, the following: (i) a complete cost estimate for all major project elements; (ii) an
 540 implementation plan with the project schedule and cost-to-complete information presented for each year;
 541 (iii) identified revenues by funding source available each year to meet project costs; and (iv) a detailed
 542 cash-flow analysis for each year of the proposed project.

543 (3) Traffic regulations. To make rules and regulations, from time to time, not in conflict with the
 544 laws of the Commonwealth, for the protection of and covering traffic on and the use of ~~systems~~ *the*
 545 *Interstate Highway System and the primary system* of state highways and to add to, amend or repeal the
 546 same.

547 (4) Naming highways, bridges, and interchanges. To give suitable names to state highways, bridges,
 548 and interchanges and change the names of any highways, bridges, or interchanges forming a part of the
 549 ~~systems~~ *Interstate Highway System or the primary system* of state highways, except such highways,

550 bridges, or interchanges as have been or may hereafter be named by the General Assembly; provided
551 that the name of living persons shall not be used for such purposes. The Department of Transportation
552 shall place and maintain appropriate signs indicating the names of highways, bridges, and interchanges
553 named by the Board or by the General Assembly. The costs of producing, placing, and maintaining
554 these signs shall be paid by the counties, cities, and towns in which they are located. No name shall be
555 given to any state highway, bridge or interchange by the Commonwealth Transportation Board unless
556 and until the Commonwealth Transportation Board shall have received from the local governing body of
557 the locality within which a portion of the facility to be named is located a resolution of that governing
558 body requesting such naming.

559 (5) Compliance with federal acts. To comply fully with the provisions of the present or future federal
560 aid acts. The Board may enter into all contracts or agreements with the United States government and
561 may do all other things necessary to carry out fully the cooperation contemplated and provided for by
562 present or future acts of Congress in the area of transportation.

563 (6) Information and statistics. To gather and tabulate information and statistics relating to
564 transportation and disseminate the same throughout the Commonwealth. In addition, the Commissioner
565 shall provide a report to the Governor, the General Assembly, the Commonwealth Transportation Board,
566 and the public concerning the current status of all highway construction projects in the Commonwealth.
567 This report shall be posted at least four times each fiscal year, but may be updated more often as
568 circumstances allow. The report shall contain, at a minimum, the following information for every project
569 in the Six-Year Improvement Program: (i) project description; (ii) total cost estimate; (iii) funds
570 expended to date; (iv) project timeline and completion date; (v) statement of whether project is ahead of,
571 on, or behind schedule; and (vi) the name of the prime contractor. Use of one or more Internet websites
572 may be used to satisfy this requirement. Project specific information posted on the Internet shall be
573 updated daily as information is available.

574 (7) Policies and operation of Departments. To review and approve policies and transportation
575 objectives of the Department of Transportation and the Department of Rail and Public Transportation, to
576 assist in establishing such policies and objectives, to oversee the execution thereof, and to report thereon
577 to the Commonwealth Transportation Commissioner and the Director of the Department of Rail and
578 Public Transportation, respectively.

579 (8) Cooperation with other agencies and local governments.

580 (a) To cooperate with the federal government, the American Association of State Highway and
581 Transportation Officials and any other organization in the numbering, signing and marking of highways,
582 in the taking of measures for the promotion of highway safety, in research activities, in the preparation
583 of standard specifications, in the testing of highway materials and otherwise with respect to
584 transportation projects.

585 (b) To offer technical assistance and coordinate state resources to work with local governments, upon
586 their request, in developing sound transportation components for their local comprehensive plans.

587 (9) Transportation.

588 (a) To monitor and, where necessary, approve actions taken by the Department of Rail and Public
589 Transportation pursuant to Chapter 10.1 (§ 33.1-391.1 et seq.) of this title in order to ensure the efficient
590 and economical development of public transportation, the enhancement of rail transportation, and the
591 coordination of such rail and public transportation plans with highway programs.

592 (b) To coordinate the planning for financing of transportation needs, including needs for highways,
593 railways, seaports, airports, and public transportation and to set aside funds as provided in
594 § 33.1-23.03:1. To allocate funds for these needs pursuant to §§ 33.1-23.1 and 58.1-638, the Board shall
595 adopt a Six-Year Improvement Program of anticipated projects and programs by July 1 of each year.
596 This program shall be based on the most recent official Transportation Trust Fund revenue forecast and
597 shall be consistent with a debt management policy adopted by the Board in consultation with the Debt
598 Capacity Advisory Committee and the Department of the Treasury.

599 (c) To recommend to the General Assembly for their consideration at the next session of the General
600 Assembly, objective criteria to be used by the Board in selecting those transportation projects to be
601 advanced from the feasibility to the construction stage. If such criteria are enacted into law, such
602 objectives shall apply *only* to the interstate, *and* primary, ~~and urban~~ systems of highways.

603 (d) To enter into contracts with local districts, commissions, agencies, or other entities created for
604 transportation purposes.

605 (10) Contracts with other states. To enter into all contracts with other states necessary for the proper
606 coordination of the location, construction, maintenance, improvement, and operation of transportation
607 systems, including the systems of state highways with the highways of such other states and, where
608 necessary, to seek the approval of such contracts by the Congress of the United States.

609 (11) Use of funds. To administer, distribute, and allocate funds in the Transportation Trust Fund as
610 provided by law. The Commonwealth Transportation Board shall ensure that the total funds allocated to
611 any highway construction project are equal to total expenditures within 12 months following completion

612 of the project. However, this requirement shall not apply to debt service apportionments pursuant to
613 § 33.1-23.3 or 33.1-23.4.

614 (12) Financial and investment advisors. With the advice of the Secretary of Finance and the State
615 Treasurer, to engage a financial advisor and investment advisor who may be anyone within or without
616 the government of the Commonwealth, to assist in planning and making decisions concerning the
617 investment of funds and the use of bonds for transportation purposes. The work of these advisors shall
618 be coordinated with the Secretary of Finance and the State Treasurer.

619 (13) The powers of the Virginia Aviation Board set out in Chapter 1 (§ 5.1-1 et seq.) of Title 5.1
620 and the Virginia Port Authority set out in Chapter 10 (§ 62.1-128 et seq.) of Title 62.1 are in no way
621 diminished by the provisions of this title.

622 (14) To enter into payment agreements with the Treasury Board related to payments on bonds issued
623 by the Commonwealth Transportation Board.

624 (15) Outdoor theaters. By regulation:

625 (a) To prevent the erection of moving picture screens of outdoor theaters in such a manner as to be
626 ordinarily visible from any highway;

627 (b) To require that a sufficient space is left between any highway and the entrance to any outdoor
628 theater to prevent congestion on the highway; and

629 (c) To require that outdoor theater entrances and exits are adequately lighted and marked.

630 The term "public transportation" or "mass transit" as used in this title means passenger transportation
631 by rubber-tired, rail, or other surface conveyance which provides shared ride services open to the general
632 public on a regular and continuing basis. The term does not include school buses; charter or sight-seeing
633 service; vehicular ferry service that serves as a link in the highway network; or human service agency or
634 other client-restricted transportation.

635 (16) Establishment of highway user fees for the systems of state highways. When the traffic-carrying
636 capacity of any system of state highways or a portion thereof is increased by construction or
637 improvement, the Commonwealth Transportation Board may enter into agreements with localities,
638 authorities, and transportation districts to establish highway user fees for such system of state highways
639 or portion thereof that the localities, authorities, and transportation districts maintain.

640 § 33.1-23.03:3.1. Virginia Highway Bridge Fund.

641 A. There is hereby established the Virginia Highway Bridge Fund. The Fund shall consist of (i)
642 funds allocated to the Fund pursuant to § 33.1-23.1 and (ii) all federal highway bridge replacement and
643 rehabilitation funds received by Virginia. The proceeds of the Fund shall be used pay the costs of
644 construction, reconstruction, and replacement of highway bridges in the Commonwealth and shall be
645 allocated by the Commonwealth Transportation Board to individual projects on the basis of the severity
646 of each bridge's deficiency.

647 B. A 20% match shall be provided from the allocation of highway system funds pursuant to
648 § 33.1-23.1 for any project on the interstate, primary, or urban system that receives funds pursuant to
649 subsection A. Such match shall be from the allocation to the highway system on which the bridge is
650 located. For projects on any county secondary highway system component, a 20% match shall be
651 provided by the county wherein the project is located.

652 § 33.1-23.05. Revenue-sharing funds for systems in certain counties, cities, and towns.

653 A. From annual allocations of state funds for the maintenance, improvement, construction, or
654 reconstruction of the systems of state highways, the Commonwealth Transportation Board shall make an
655 equivalent matching allocation to any county, city, or town for designations by the governing body of
656 up to \$1 million in county, city, or town general funds for use by the county, city, or town to construct,
657 maintain, or improve the highway systems within such county, city, or town. After adopting a resolution
658 supporting the action, the governing body may request revenue-sharing funds to construct, maintain, or
659 improve a highway system located in another locality or to bring subdivision streets, used as such prior
660 to July 1, 1992, up to standards sufficient to qualify them for inclusion in the state primary and county
661 secondary system systems of highways.

662 B. The allocation of funds to localities shall be only for the purposes set forth in subsection A and
663 shall be (i) first when such governing body commits more than \$1 million in general funds for such
664 purpose; (ii) second when such project is administered by the city, county, or town; (iii) third when the
665 allocation will accelerate an existing project in the Six-Year Improvement Program or the locality's
666 capital plans; and (iv) from any funds remaining, any other request that has a matching allocation from
667 the governing body.

668 C. The Department will contract with the county, city, or town for the implementation of the project
669 or projects. Such contract may cover either a single project or may provide for the locality's
670 implementation of several projects during the fiscal year. The county, city, or town will undertake
671 implementation of the particular project or projects by obtaining the necessary permits from the
672 Department of Transportation in order to ensure that the improvement is consistent with the

673 Department's standards for such improvements. If administered by the Department, such contract shall
 674 also require that the governing body pay to the Department within 30 days the local revenue-sharing
 675 funds from its general fund upon written notice by the Department of its intent to proceed.

676 D. Up to one-half of any local government's contributions under this section may take the form of
 677 proffers accepted by the locality and deposited into their general fund.

678 E. Total Commonwealth funds allocated by the Board under this section shall not exceed \$50 million
 679 in any one fiscal year.

680 F. No more than three months prior to the end of any fiscal year in which less than \$50 million has
 681 been allocated by the Board to specific governing bodies, those localities requesting more than \$1
 682 million may be allowed an additional allocation. The additional allocation shall be at the discretion of
 683 the Commonwealth Transportation Board among the localities receiving the maximum allocation under
 684 subsection A.

685 § 33.1-23.1. Allocation of funds among highway systems.

686 A. The Commonwealth Transportation Board shall allocate each year from all funds made available
 687 for highway purposes such amount as it deems reasonable and necessary for the maintenance of roads
 688 within the interstate system of highways, *and* the primary system of state highways, ~~the secondary~~
 689 ~~system of state highways and for city and town street maintenance payments made pursuant to~~
 690 ~~§ 33.1-41.1 and payments made to counties which have withdrawn or elect to withdraw from the~~
 691 ~~secondary system of state highways pursuant to § 33.1-23.5:1.~~

692 B. After funds are set aside for administrative and general expenses and pursuant to other provisions
 693 in this title which provide for the disposition of funds prior to allocation for highway purposes, and after
 694 allocation is made pursuant to subsection A of this section, the Commonwealth Transportation Board
 695 may allocate each year up to 10% of the funds remaining for highway purposes for the undertaking and
 696 financing of rail projects that, in the Board's determination, will result in mitigation of highway
 697 congestion. After the forgoing allocations have been made, the Board shall allocate the remaining funds
 698 available for highway purposes, exclusive of federal funds for the interstate system, among the several
 699 highway systems for construction first pursuant to §§ 33.1-23.1:1 and 33.1-23.1:2 and then as follows:

700 1. ~~Forty Sixty~~ percent of the remaining funds exclusive of federal-aid matching funds for the
 701 interstate system shall be allocated to the primary system of state highways, ~~including the arterial~~
 702 ~~network,~~ and in addition, an amount shall be allocated to the primary system as interstate matching
 703 funds as provided in subsection B of § 33.1-23.2.

704 2. ~~Thirty percent of the remaining funds exclusive of federal-aid matching funds for the interstate~~
 705 ~~system shall be allocated to urban highways for state aid pursuant to § 33.1-44.~~

706 3. ~~Thirty percent of the remaining funds exclusive of federal-aid matching funds for the interstate~~
 707 ~~system shall be allocated to the secondary system of state highways. Twenty percent of the remaining~~
 708 ~~funds shall be allocated by the Commonwealth Transportation Board to supplement other funds~~
 709 ~~available to address high-cost construction projects in the Interstate Highway System and the National~~
 710 ~~Highway System.~~

711 4. *Ten percent of the remaining funds shall be allocated by the Commonwealth Transportation Board*
 712 *to permit an expanded use of primary system construction funding for transit capital projects.*

713 5. *Ten percent of the remaining funds shall be allocated to the Virginia Highway Bridge Fund*
 714 *established by § 33.1-23.03:3.1.*

715 C. Notwithstanding the foregoing provisions of this section, the General Assembly may, through the
 716 general appropriations act, permit the Governor to increase the amounts to be allocated to highway
 717 maintenance, highway construction, either or both.

718 § 33.1-25. Primary system of state highways; "State Highway System" construed.

719 Except as the same shall be changed as hereinafter provided, the roads and bridges now comprising
 720 the State Highway System, sometimes referred to as the primary system of state highways, shall
 721 continue to constitute and be known as the State Highway System and the terms "State Highway
 722 System" or "primary system of state highways" when used elsewhere in this Code or in any other act or
 723 statute shall refer to and mean such State Highway System, sometimes called the primary system of
 724 state highways, as so constituted. The term "State Highway System" shall not include the *any component*
 725 *of any county's secondary highway system of state highways.* The State Highway System shall be
 726 constructed and maintained by the ~~State Commonwealth~~ under the direction and supervision of the
 727 Commonwealth Transportation Board and the Commonwealth Transportation Commissioner.

728 § 33.1-31. Certain park roads in primary system.

729 All roads in the several state parks providing connections between highways, either *state primary or*
 730 *county secondary highways*, outside of such parks and the recreation centers in such parks shall continue
 731 to be and constitute portions of the primary system of state highways and as such be constructed,
 732 reconstructed, improved and maintained.

733 All roads, bridges and toll facilities constructed by way of revenue bonds issued by the Department
 734 of Conservation and Recreation shall operate under the terms of their establishment as a park facility,

735 notwithstanding the right of the Commonwealth Transportation Commissioner to use highway funds to
736 maintain them.

737 § 33.1-32. Maintenance of roads, bridges and toll facilities within boundaries of state parks.

738 The Commonwealth Transportation Commissioner may maintain all roads, bridges and toll facilities
739 situated within the boundaries of any state park heretofore or hereafter established by, and under the
740 control of, the Department of Conservation and Recreation. For the purpose of maintaining the roads in
741 any such park the Commonwealth Transportation Commissioner may expend funds under his control and
742 available for expenditures upon the maintenance of roads in the ~~secondary~~ *primary* system of state
743 highways in the county or counties in which such state park is located. This section shall not affect the
744 jurisdiction, control and right to establish such roads, bridges and toll facilities which are now vested in
745 the Department of Conservation and Recreation.

746 § 33.1-34. Transfer of roads, etc., from secondary to primary system; additions to primary system.

747 The Commonwealth Transportation Board may transfer such roads, bridges and streets as the Board
748 shall deem proper from the secondary system of state highways to the primary system of state highways;
749 upon such transfer the roads, bridges and streets so transferred shall become for all purposes parts of the
750 primary system of state highways and thereafter cease being parts of the secondary system of state
751 highways. The Board may add such roads, bridges and streets as it shall deem proper to the *state*
752 primary *highway* system. The total mileage of such roads, bridges and streets so ~~transferred~~ or added by
753 the Board shall not, however, exceed fifty miles during any one year.

754 § 33.1-35. Transfer of roads, etc., from primary to secondary system.

755 The Commonwealth Transportation Board may transfer such roads, bridges and streets as the Board
756 shall deem proper from the primary system of state highways to the *any county's* secondary *highway*
757 system of state highways; upon such transfer, the roads, bridges and streets so transferred shall become
758 for all purposes parts of the *county's* secondary *highway* system of state highways and thereafter cease
759 being parts of the *state* primary *highway* system of state highways. The total mileage of such roads,
760 bridges and streets so transferred by the Board shall not, however, exceed 150 miles during any one
761 year.

762 No resolution for any such transfer shall be adopted until (1) notice of intention to propose the same
763 for adoption shall have been given for sixty days to the governing body of each county, city and town
764 in which is located any part of any such roads, bridges and streets proposed to be transferred; and (2) if
765 any such governing body requests, a public hearing is held on such proposal.

766 § 33.1-41.1. Payments to counties, cities, and towns for maintenance of highways.

767 The Commonwealth Transportation Commissioner, subject to the approval of the Commonwealth
768 Transportation Board, shall make payments for maintenance, construction, or reconstruction of highways,
769 as hereinafter provided, to all *counties*, cities, and towns eligible for allocation of construction funds for
770 ~~urban highways under § 33.1-23.3.~~ Such payments, however, shall only be made if those highways
771 functionally classified as principal and minor arterial roads are maintained to a standard satisfactory to
772 the Department of Transportation. ~~Whenever any city or town qualifies under this section for allocation~~
773 ~~of funds, such qualification shall continue to apply to such city or town regardless of any subsequent~~
774 ~~change in population and shall cease to apply only when so specifically provided by an act of the~~
775 ~~General Assembly. All allocations made prior to July 1, 2001, to cities and towns meeting the criteria of~~
776 ~~the foregoing provisions of this section are hereby confirmed.~~

777 No payments shall be made by the Commissioner to any ~~such~~ *county*, city, or town *under this*
778 *section* unless the portion of the highway for which such payment is made either (a) has (i) an
779 unrestricted right-of-way at least 50 feet wide and (ii) a hard-surface width of at least 30 feet; or (b) has
780 (i) an unrestricted right-of-way at least 80 feet wide, (ii) a hard-surface width of at least 24 feet, and
781 (iii) approved engineering plans for the ultimate construction of an additional hard-surface width of at
782 least 24 feet within the same right-of-way; or (c) (i) is a cul-de-sac, (ii) has an unrestricted right-of-way
783 at least 40 feet wide, and (iii) has a turnaround that meets applicable standards set by the Department of
784 Transportation; or (d) either (i) has been paved and has constituted part of the *state* primary *highway*
785 *system* or a *county's* secondary *highway* system of state highways prior to annexation or incorporation or
786 (ii) has constituted part of the *a county's* secondary *highway* system of state highways prior to
787 annexation or incorporation and is paved to a minimum width of 16 feet subsequent to such annexation
788 or incorporation and with the further exception of streets or portions thereof which have previously been
789 maintained under the provisions of § 33.1-79 or § 33.1-82; or (e) was eligible for and receiving such
790 payments under the laws of the Commonwealth in effect on June 30, 1985; or (f) is a street established
791 prior to July 1, 1950, which has an unrestricted right-of-way width of not less than 30 feet and a
792 hard-surface width of not less than 16 feet; or (g) is a street functionally classified as a local street and
793 constructed on or after January 1, 1996, which at the time of approval by the city or town met the
794 criteria for pavement width and right-of-way of the then-current edition of the subdivision street
795 requirements manual for secondary roads of the Department of Transportation (24 VAC 30-90-10 et

796 seq.); (h) is a street previously eligible to receive street payments that is located in a city having a
 797 population of at least 200,000 but no more than 250,000 and is closed to public travel, pursuant to
 798 legislation enacted by the governing body of the city in which it is located, for public safety reasons,
 799 within the boundaries of a publicly funded housing development owned and operated by the local
 800 housing authority; or (i) is a local street, otherwise eligible, containing one or more physical
 801 protuberances placed within the right-of-way for the purpose of controlling the speed of traffic.

802 However, the Commissioner may waive the requirements as to hard-surface pavement or right-of-way
 803 width for highways where the width modification is at the request of the local governing body and is to
 804 protect the quality of the affected local government's drinking water supply or, for highways constructed
 805 on or after July 1, 1994, to accommodate some other special circumstance where such action would not
 806 compromise the health, safety, or welfare of the public. The modification is subject to such conditions as
 807 the Commissioner may prescribe.

808 For the purpose of calculating allocations and making payments under this section, the Department
 809 shall divide affected highways into two categories, which shall be distinct from but based on functional
 810 classifications established by the Federal Highway Administration: (i) principal and minor arterial roads
 811 and (ii) collector roads and local streets. Payments to affected localities shall be based on the number of
 812 moving-lane-miles of highways or portions thereof available to peak-hour traffic in each category of
 813 highways in that locality. For the fiscal year 1986, payment to each *county*, city, and town shall be an
 814 amount equal to \$7,787 per moving-lane-mile for principal and minor arterials and \$4,572 per
 815 moving-lane-mile for collector roads and local streets.

816 The Department of Transportation shall establish a statewide maintenance index of the unit costs for
 817 labor, equipment, and materials used on roads and bridges in the fiscal year 1986, and use changes in
 818 that index to calculate and put into effect annual changes in the base per-lane-mile rate payable under
 819 this section.

820 The fund allocated by the Board shall be paid in equal sums in each quarter of the fiscal year, and
 821 no payment shall be made without the approval of the Board.

822 The chief administrative officer of the *county*, city, or town receiving this fund shall make annual
 823 categorical reports of expenditures to the Board, in such form as the Board shall prescribe, accounting
 824 for all expenditures, certifying that none of the money received has been expended for other than
 825 maintenance, construction or reconstruction of the streets, and reporting on their performance as
 826 specified in subdivision B 3 of § 33.1-23.02. Such reports shall be included in the scope of the annual
 827 audit of each ~~municipality~~ *county, city, or town* conducted by independent certified public accountants.

828 § 33.1-46.1. Highway aid to mass transit.

829 In allocating highway funds the Commonwealth Transportation Board may use such funds for
 830 highway aid to mass transit facilities when such use will best accomplish the purpose of serving the
 831 transportation needs of the greatest number of people.

832 Highway aid to mass transit may be accomplished (i) by using highway funds to aid in paying transit
 833 operating costs borne by localities and/or (ii) by acquisition or construction of transit-related highway
 834 facilities such as exclusive bus lanes, bus turn-outs, bus passenger shelters, fringe parking facilities,
 835 including necessary access roads, to promote transit use and relieve highway congestion, off-street
 836 parking facilities to permit exclusive use of curb lane by buses, and by permitting mass transit facilities
 837 to occupy highway median strips without the reimbursement required by § 33.1-97, all to the end that
 838 highway traffic may be relieved through the development of more efficient mass transit.

839 Expenditures of funds under the authority of this section shall be made from funds available for the
 840 construction of state highways within the construction district in which the transit facilities are wholly or
 841 partly located.

842 The Board may at its discretion contract with the governing bodies comprising a transportation
 843 district, or in its discretion, other local governing bodies, for the accomplishment of a project to which
 844 funds have been allocated under the provisions of this section. Whenever such projects are being
 845 financed by advance annual allocation of funds, the Board may make such funds available to the
 846 contracting governing bodies in annual increments which may be used for other transit purposes until
 847 needed for the project for which allocated; however, the Board may require bond or other satisfactory
 848 assurance of final completion of the contract.

849 ~~The Board may also, at the request of local governing bodies, use funds allocated for urban~~
 850 ~~highways or secondary roads within their jurisdiction to accomplish the purposes of this section.~~

851 The General Assembly may, through the general appropriation act, (i) provide for limits on the
 852 amounts or purposes of allocations made under this section and (ii) provide for the transfer of
 853 allocations from one eligible recipient to another.

854 § 33.1-46.2. (For expiration date /- See Editor's note) Designation of high-occupancy vehicle lanes;
 855 use of such lanes; penalties.

856 A. In order to facilitate the rapid and orderly movement of traffic to and from urban areas during
 857 peak traffic periods, the Commonwealth Transportation Board may designate one or more lanes of any

858 highway in the interstate, ~~or primary, or secondary~~ highway systems as high-occupancy vehicle lanes,
 859 hereinafter referred to in this section as HOV lanes. When lanes have been so designated and have been
 860 appropriately marked with such signs or other markers as the Board may prescribe, they shall be
 861 reserved during periods designated by the Board for the exclusive use of buses and high-occupancy
 862 vehicles. Any local governing body may also, with respect to highways under its exclusive jurisdiction,
 863 designate HOV lanes and impose and enforce restrictions on the use of such HOV lanes. Any highway
 864 for which the local jurisdiction receives highway maintenance funds pursuant to § 33.1-41.1 shall be
 865 deemed to be within the exclusive jurisdiction of the local governing body for the purposes of this
 866 section. HOV lanes shall be reserved for high-occupancy vehicles of a specified number of occupants as
 867 determined by the Board or, for HOV lanes designated by a local governing body, by that local
 868 governing body. Notwithstanding the foregoing provisions of this section, no designation of any lane or
 869 lanes of any highway as HOV lanes shall apply to the use of any such lanes by:

- 870 1. Emergency vehicles such as fire-fighting vehicles, ambulances, and rescue squad vehicles,
- 871 2. Law-enforcement vehicles,
- 872 3. Motorcycles,
- 873 4. a. Transit and commuter buses designed to transport 16 or more passengers, including the driver,
- 874 b. Commuter buses and motor coaches operating under irregular route passenger certificates issued
- 875 under § 46.2-2010 and any vehicle operating under a certificate of Public Convenience and Necessity or
- 876 as a common carrier of passengers under § 46.2-2075 or § 46.2-2080,
- 877 5. Vehicles of public utility companies operating in response to an emergency call,
- 878 6. Until July 1, 2007, vehicles bearing clean special fuel vehicle license plates issued pursuant to
- 879 § 46.2-749.3, or
- 880 7. Taxicabs having two or more occupants, including the driver.

881 In the Hampton Roads Planning District, HOV restrictions may be temporarily lifted and HOV lanes
 882 opened to use by all vehicles when restricting use of HOV lanes becomes impossible or undesirable and
 883 the temporary lifting of HOV limitations is indicated by signs along or above the affected portion of
 884 highway.

885 The Commissioner of VDOT shall implement a program of the HOV facilities in the Hampton Roads
 886 Planning District beginning not later than May 1, 2000. This program shall include the temporary lifting
 887 of HOV restrictions and the opening of HOV lanes to all traffic when an incident resulting from
 888 nonrecurring causes within the general lanes occurs such that a lane of traffic is blocked or is expected
 889 to be blocked for 10 minutes or longer. The HOV restrictions for the facility will be reinstated when the
 890 general lane is no longer blocked and is available for use.

891 The Commissioner shall maintain necessary records to evaluate the effects of such openings on the
 892 operation of the general lanes and the HOV lanes. He shall report on the effects of this program. This
 893 program will terminate if the Federal Highway Administration requires repayment of any federal
 894 highway construction funds because of the program's impact on the HOV facilities in Hampton Roads.

895 B. In designating any lane or lanes of any highway as HOV lanes, the Board, or local governing
 896 body as the case may be, shall specify the hour or hours of each day of the week during which the
 897 lanes shall be so reserved, and the hour or hours shall be plainly posted at whatever intervals along the
 898 lanes the Board or local governing body deems appropriate. Any person driving a motor vehicle in a
 899 designated HOV lane in violation of this section shall be guilty of a traffic infraction which shall not be
 900 a moving violation and on conviction shall be fined \$100. However, violations committed within the
 901 boundaries of Planning District Eight shall be punishable as follows:

- 902 For a first offense, by a fine of \$125;
- 903 For a second offense within a period of five years from a first offense, by a fine of \$250;
- 904 For a third offense within a period of five years from a first offense, by a fine of \$500; and
- 905 For a fourth or subsequent offense within a period of five years from a first offense, by a fine of
- 906 \$1,000.

907 Upon a conviction under this section, the court shall furnish to the Commissioner of the Department
 908 of Motor Vehicles in accordance with § 46.2-383 an abstract of the record of such conviction which
 909 shall become a part of the person's driving record. Notwithstanding the provisions of § 46.2-492, no
 910 driver demerit points shall be assessed for any violation of this section; except that persons convicted of
 911 second, third, fourth, or subsequent violations within five years of a first offense committed in Planning
 912 District Eight shall be assessed three demerit points for each such violation.

913 C. In the prosecution of an offense, committed in the presence of a law-enforcement officer, of
 914 failure to obey a road sign restricting a highway, or portion thereof, to the use of high-occupancy
 915 vehicles, proof that the vehicle described in the HOV violation summons was operated in violation of
 916 this section, together with proof that the defendant was at the time of such violation the registered
 917 owner of the vehicle, shall constitute in evidence a rebuttable presumption that such registered owner of
 918 the vehicle was the person who committed the violation. Such presumption shall be rebutted if the

919 registered owner of the vehicle testifies in open court under oath that he was not the operator of the
 920 vehicle at the time of the violation. A summons for a violation of this section may be executed in
 921 accordance with § 19.2-76.2. Such rebuttable presumption shall not arise when the registered owner of
 922 the vehicle is a rental or leasing company.

923 D. Notwithstanding the provisions of § 19.2-76, whenever a summons for a violation of this section
 924 is served in any county, city, or town, it may be executed by mailing by first-class mail a copy thereof
 925 to the address of the owner of the vehicle as shown on the records of the Department of Motor
 926 Vehicles. If the summoned person fails to appear on the date of return set out in the summons mailed
 927 pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3.

928 No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for his
 929 failure to appear on the return date of the summons.

930 E. Notwithstanding § 33.1-252, high-occupancy vehicles having three or more occupants (HOV-3)
 931 may be permitted to use the Omer L. Hirst-Adelard L. Brault Expressway (Dulles Toll Road) without
 932 paying a toll.

933 F. Notwithstanding the contrary provisions of this section, the following conditions shall be met
 934 before the HOV-2 designation of Interstate Route 66 outside the Capital Beltway can be changed to
 935 HOV-3 or any more restrictive designation:

936 1. The Department shall publish a notice of its intent to change the existing designation and also
 937 immediately provide similar notice of its intent to all members of the General Assembly representing
 938 districts that touch or are directly impacted by traffic on Interstate Route 66.

939 2. The Department shall hold public hearings in the corridor to receive comments from the public.

940 3. The Department shall make a finding of the need for a change in such designation, based on
 941 public hearings and its internal data and present this finding to the Commonwealth Transportation Board
 942 for approval.

943 4. The Commonwealth Transportation Board shall make written findings and a decision based upon
 944 the following criteria:

945 a. Is changing the HOV-2 designation to HOV-3 in the public interest?

946 b. Is there quantitative and qualitative evidence that supports the argument that HOV-3 will facilitate
 947 the flow of traffic on Interstate Route 66?

948 c. Is changing the HOV-2 designation beneficial to comply with the federal Clean Air Act
 949 Amendments of 1990?

950 G. [Repealed.]

951 § 33.1-46.2. (For effective date /- See Editor's note) Designation of high-occupancy vehicle lanes; use
 952 of such lanes; penalties.

953 A. In order to facilitate the rapid and orderly movement of traffic to and from urban areas during
 954 peak traffic periods, the Commonwealth Transportation Board may designate one or more lanes of any
 955 highway in the interstate, *or* primary, ~~or secondary~~ highway systems as high-occupancy vehicle lanes,
 956 hereinafter referred to in this section as HOV lanes. When lanes have been so designated and have been
 957 appropriately marked with such signs or other markers as the Board may prescribe, they shall be
 958 reserved during periods designated by the Board for the exclusive use of buses and high-occupancy
 959 vehicles. Any local governing body may also, with respect to highways under its exclusive jurisdiction,
 960 designate HOV lanes and impose and enforce restrictions on the use of such HOV lanes. Any highway
 961 for which the local jurisdiction receives highway maintenance funds pursuant to § 33.1-41.1 shall be
 962 deemed to be within the exclusive jurisdiction of the local governing body for the purposes of this
 963 section. HOV lanes shall be reserved for high-occupancy vehicles of a specified number of occupants as
 964 determined by the Board or, for HOV lanes designated by a local governing body, by that local
 965 governing body. Notwithstanding the foregoing provisions of this section, no designation of any lane or
 966 lanes of any highway as HOV lanes shall apply to the use of any such lanes by:

967 1. Emergency vehicles such as fire-fighting vehicles, ambulances, and rescue squad vehicles,

968 2. Law-enforcement vehicles,

969 3. Motorcycles,

970 4. a. Transit and commuter buses designed to transport 16 or more passengers, including the driver,

971 b. Commuter buses and motor coaches operating under irregular route passenger certificates issued
 972 under § 46.2-2010 and any vehicle operating under a certificate of Public Convenience and Necessity or
 973 as a common carrier of passengers under § 46.2-2075 or § 46.2-2080,

974 5. Vehicles of public utility companies operating in response to an emergency call,

975 6. Until July 1, 2004, vehicles bearing clean special fuel vehicle license plates issued pursuant to
 976 § 46.2-749.3, or

977 7. Taxicabs having two or more occupants, including the driver.

978 In the Hampton Roads Planning District, HOV restrictions may be temporarily lifted and HOV lanes
 979 opened to use by all vehicles when restricting use of HOV lanes becomes impossible or undesirable and
 980 the temporary lifting of HOV limitations is indicated by signs along or above the affected portion of

981 highway.

982 The Commissioner of VDOT shall implement a program of the HOV facilities in the Hampton Roads
983 Planning District beginning not later than May 1, 2000. This program shall include the temporary lifting
984 of HOV restrictions and the opening of HOV lanes to all traffic when an incident resulting from
985 nonrecurring causes within the general lanes occurs such that a lane of traffic is blocked or is expected
986 to be blocked for 10 minutes or longer. The HOV restrictions for the facility will be reinstated when the
987 general lane is no longer blocked and is available for use.

988 The Commissioner shall maintain necessary records to evaluate the effects of such openings on the
989 operation of the general lanes and the HOV lanes. He shall report on the effects of this program. This
990 program will terminate if the Federal Highway Administration requires repayment of any federal
991 highway construction funds because of the program's impact on the HOV facilities in Hampton Roads.

992 B. In designating any lane or lanes of any highway as HOV lanes, the Board, or local governing
993 body as the case may be, shall specify the hour or hours of each day of the week during which the
994 lanes shall be so reserved, and the hour or hours shall be plainly posted at whatever intervals along the
995 lanes the Board or local governing body deems appropriate. Any person driving a motor vehicle in a
996 designated HOV lane in violation of this section shall be guilty of a traffic infraction which shall not be
997 a moving violation and on conviction shall be fined \$100. However, violations committed within the
998 boundaries of Planning District Eight shall be punishable as follows:

999 For a first offense, by a fine of \$125;

1000 For a second offense within a period of five years from a first offense, by a fine of \$250;

1001 For a third offense within a period of five years from a first offense, by a fine of \$500; and

1002 For a fourth or subsequent offense within a period of five years from a first offense, by a fine of
1003 \$1,000.

1004 Upon a conviction under this section, the court shall furnish to the Commissioner of the Department
1005 of Motor Vehicles in accordance with § 46.2-383 an abstract of the record of such conviction which
1006 shall become a part of the person's driving record. Notwithstanding the provisions of § 46.2-492, no
1007 driver demerit points shall be assessed for any violation of this section; except that persons convicted of
1008 second, third, fourth, or subsequent violations within five years of a first offense committed in Planning
1009 District Eight shall be assessed three demerit points for each such violation.

1010 C. In the prosecution of an offense, committed in the presence of a law-enforcement officer, of
1011 failure to obey a road sign restricting a highway, or portion thereof, to the use of high-occupancy
1012 vehicles, proof that the vehicle described in the HOV violation summons was operated in violation of
1013 this section, together with proof that the defendant was at the time of such violation the registered
1014 owner of the vehicle, shall constitute in evidence a rebuttable presumption that such registered owner of
1015 the vehicle was the person who committed the violation. Such presumption shall be rebutted if the
1016 registered owner of the vehicle testifies in open court under oath that he was not the operator of the
1017 vehicle at the time of the violation. A summons for a violation of this section may be executed in
1018 accordance with § 19.2-76.2. Such rebuttable presumption shall not arise when the registered owner of
1019 the vehicle is a rental or leasing company.

1020 D. Notwithstanding the provisions of § 19.2-76, whenever a summons for a violation of this section
1021 is served in any county, city, or town, it may be executed by mailing by first-class mail a copy thereof
1022 to the address of the owner of the vehicle as shown on the records of the Department of Motor
1023 Vehicles. If the summoned person fails to appear on the date of return set out in the summons mailed
1024 pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3.

1025 No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for his
1026 failure to appear on the return date of the summons.

1027 E. Notwithstanding § 33.1-252, high-occupancy vehicles having three or more occupants (HOV-3)
1028 may be permitted to use the Omer L. Hirst-Adelard L. Brault Expressway (Dulles Toll Road) without
1029 paying a toll.

1030 F. Notwithstanding the contrary provisions of this section, the following conditions shall be met
1031 before the HOV-2 designation of Interstate Route 66 outside the Capital Beltway can be changed to
1032 HOV-3 or any more restrictive designation:

1033 1. The Department shall publish a notice of its intent to change the existing designation and also
1034 immediately provide similar notice of its intent to all members of the General Assembly representing
1035 districts that touch or are directly impacted by traffic on Interstate Route 66.

1036 2. The Department shall hold public hearings in the corridor to receive comments from the public.

1037 3. The Department shall make a finding of the need for a change in such designation, based on
1038 public hearings and its internal data and present this finding to the Commonwealth Transportation Board
1039 for approval.

1040 4. The Commonwealth Transportation Board shall make written findings and a decision based upon
1041 the following criteria:

- 1042 a. Is changing the HOV-2 designation to HOV-3 in the public interest?
- 1043 b. Is there quantitative and qualitative evidence that supports the argument that HOV-3 will facilitate
- 1044 the flow of traffic on Interstate Route 66?
- 1045 c. Is changing the HOV-2 designation beneficial to comply with the federal Clean Air Act
- 1046 Amendments of 1990?

1047 G. [Repealed.]

1048 § 33.1-52. Transfer of roads, etc., from primary system to Interstate System.

1049 The Commonwealth Transportation Board may transfer such roads, bridges and streets as the Board
 1050 shall deem proper from the ~~secondary or~~ primary system of state highways to the Interstate System of
 1051 State Highways. Upon such transfer the roads, bridges and streets so transferred shall become for all
 1052 purposes parts of the Interstate System of State Highways and thereafter cease being parts of the
 1053 ~~secondary or~~ primary system of state highways. The Board may add such roads, bridges and streets as it
 1054 deems proper to the Interstate System without limitations as to mileage.

1055 § 33.1-53. Transfer of roads, etc., from Interstate System to county secondary or state primary
 1056 system.

1057 The Commonwealth Transportation Board may transfer such roads, bridges and streets as the Board
 1058 shall deem proper from the Interstate System of State Highways to the primary system of *highways* or
 1059 *any county's* secondary *highway* system of ~~state highways~~ without limitations as to mileage; upon such
 1060 transfer, the roads, bridges and streets so transferred shall become for all purposes parts of the *state*
 1061 primary system or *county* secondary *highway* system of ~~state highways~~ and thereafter cease being parts
 1062 of the Interstate System of State Highways. *No component of the Interstate System of State Highways*
 1063 *shall be transferred to any county's secondary highway system without the consent of the county's local*
 1064 *governing body.*

1065 Article 6.

1066 County Secondary Highway Systems.

1067 § 33.1-67. County secondary highway systems.

1068 The ~~county secondary system of state highways~~ *highway systems* shall consist of all of the public
 1069 roads, causeways, bridges, landings, and wharves in the several counties of the Commonwealth not
 1070 included in the State Highway System, including such roads and community roads leading to and from
 1071 public school buildings, streets, causeways, bridges, landings, and wharves in incorporated towns having
 1072 3,500 inhabitants or less according to the census of 1920, and in all towns having such a population
 1073 incorporated since 1920, as constitute connecting links between roads in ~~the~~ *any county's* secondary
 1074 *highway* system ~~in the several counties~~ and between roads in ~~the~~ *any county's* secondary *highway* system
 1075 and roads in the primary system of the state highways, not, however, to exceed two miles in any one
 1076 town. If in any such town, which is partly surrounded by water, less than two miles of the roads and
 1077 streets therein constitute parts of the secondary system of state highways, the Commonwealth
 1078 Transportation Board shall, upon the adoption of a resolution by the council or other governing body of
 1079 such town designating for inclusion in the secondary system of state highways certain roads and streets
 1080 in such town not to exceed a distance of two miles, less the length of such roads and streets in such
 1081 town which constitute parts of the secondary system of state highways, accept and place in the
 1082 secondary system of state highways such additional roads and streets.

1083 § 33.1-68. Certain school roads in county secondary highway system.

1084 All roads leading from the state *primary system* highways, either ~~primary or secondary~~, to public
 1085 schools in the counties of the Commonwealth to which school buses are operated shall ~~continue to~~
 1086 constitute portions of the *county secondary highway* system of ~~state highways~~ *of the county in which*
 1087 *they are located*, insofar as these roads lead to or are on school property and as such shall be improved
 1088 and maintained *by the county.*

1089 § 33.1-69. Control, supervision, management, operation, and jurisdiction.

1090 ~~The~~ *All* control, supervision, management, and *operation of and* jurisdiction over ~~former components~~
 1091 *of* the secondary system of state highways shall be vested in the ~~Department of Transportation~~ *local*
 1092 *governing bodies of the counties in which they are located* and the maintenance and improvement,
 1093 including construction and reconstruction, of such ~~former components of the~~ secondary system of state
 1094 highways shall be by the Commonwealth under the supervision of the Commonwealth Transportation
 1095 ~~Commissioner~~ *counties in which they are located.* The boards of supervisors or other governing bodies
 1096 of the several counties and the county road board or county road commission of any county operating
 1097 under a county road board or county road commission shall have ~~no~~ *exclusive* control, supervision,
 1098 management, and jurisdiction over such public roads, causeways, bridges, landings, and wharves,
 1099 ~~formerly~~ constituting the secondary system of state highways. Except as otherwise provided in this
 1100 article, the Commonwealth Transportation Board shall be vested with the same powers, control and
 1101 jurisdiction over the secondary system of state highways in the several counties and towns of the
 1102 Commonwealth, and such additions as may be made from time to time, as were vested in the boards of
 1103 supervisors or other governing bodies of the several counties or in the county road board or county road

1104 commission in any county operating under a county road board or county road commission on June 21,
 1105 1932, and in addition thereto shall be vested with the same power, authority and control as to the
 1106 secondary system of state highways as is vested in the Board in connection with the State Highway
 1107 System *However, notwithstanding the foregoing provisions of this section, the Virginia Department of*
 1108 *Transportation shall establish standards and specifications which shall be adhered to by counties in the*
 1109 *construction and maintenance of all components of county secondary highway systems.*

1110 § 33.1-69.1. Transfer of control, etc., of landings, docks and wharves to Department of Game and
 1111 Inland Fisheries.

1112 A. Notwithstanding any other provision of law, the ~~Commonwealth Transportation Board~~ *local*
 1113 *governing body of any county* may transfer the control, possession, supervision, management, and
 1114 jurisdiction of landings, wharves, and docks in the *county's* secondary highway system of state highways
 1115 to the Department of Game and Inland Fisheries, at the request or with the concurrence of the
 1116 Department of Game and Inland Fisheries. Such transfer may be by lease, agreement, or otherwise,
 1117 approved by resolution of the Board, and signed by the Commissioner or his designee, *local governing*
 1118 *body* for such period and upon such terms and conditions as the Board *local governing body* may direct.

1119 B. All such transfers effected prior to the enactment of this section by lease, agreement, or otherwise,
 1120 from the Department to the Department of Game and Inland Fisheries, and all regulations of the
 1121 Department of Game and Inland Fisheries controlling the use of such facilities, shall be and are hereby
 1122 declared valid in every respect.

1123 § 33.1-69.2. Relocation or removal of utility facilities within county secondary highway system
 1124 construction projects.

1125 Whenever it is necessary that any tracks, pipes, mains, conduits, cables, wires, towers, or other
 1126 structures, equipment and appliances (herein called facilities) of any utility as herein defined, in, on,
 1127 under, over or along an existing highway that is to be included within any construction project on ~~the~~
 1128 *any county's* secondary highway system should be relocated or removed, the owner or operator of such
 1129 facilities shall relocate or remove the same in accordance with the order of the ~~Board~~ *local governing*
 1130 *body*. The cost of such relocation or removal, as herein defined, including the cost of installing such
 1131 facilities in a new location or locations, and the cost of any lands, or any rights or interest in lands, and
 1132 any other rights, required to accomplish such relocation or removal, shall be ascertained and paid by the
 1133 ~~Board~~ *local governing body* as a part of the cost of such project.

1134 For the purposes of this section, "utility" includes utilities owned by a county, city, town, public
 1135 authority or nonprofit, consumer-owned company, located in a county having a population of at least
 1136 32,000 but no more than 34,000, that (i) is exempt from income taxation under § 501 (c) (3) of the
 1137 Internal Revenue Code, (ii) is organized to provide suitable drinking water, (iii) has no assistance from
 1138 investors, (iv) does not pay dividends, and (v) does not sell stock to the general public, and "cost of
 1139 relocation or removal" includes the entire amount paid by such utility properly attributable to such
 1140 relocation or removal after deducting therefrom any increase in the value of the new facility and any
 1141 salvage value derived from the old facility.

1142 The cost of relocating or removing utility facilities in connection with any project on the secondary
 1143 highway system is hereby declared to be a cost of highway construction.

1144 § 33.1-75.2. Contributions to primary system road construction by counties.

1145 Notwithstanding any other provision of law, any county having roads in the primary ~~or secondary~~
 1146 ~~system of state highways~~ may contribute funds annually for the construction of primary ~~or secondary~~
 1147 ~~system~~ roads. The funds contributed by such county shall be appropriated from the county's general
 1148 revenues for use by the Department of Transportation on the primary ~~or secondary~~ system within such
 1149 county as may be determined by the board of supervisors of such county in cooperation with the
 1150 Department. The funds to which any county may be entitled under the provisions of §§ 33.1-23.1, *or*
 1151 ~~33.1-23.2 and 33.1-23.4~~ for construction, improvement or maintenance of primary or secondary roads
 1152 shall not be diminished by reason of any funds contributed for that purpose by such county or by any
 1153 person or entity, regardless of whether such contributions are matched by state or federal funds.

1154 § 33.1-75.3. Construction and improvement of primary highways by counties.

1155 A. Notwithstanding any other provisions of this article, the governing body of any county may
 1156 expend general revenues or revenues derived from the sale of bonds for the purpose of constructing or
 1157 improving highways, including curbs, gutters, drainageways, sound barriers, sidewalks, and all other
 1158 features or appurtenances conducive to the public safety and convenience, which either have been or
 1159 may be taken into the primary ~~or secondary~~ system of state highways. Project planning and the
 1160 acquisition of rights-of-way shall be under the control and at the direction of the county, subject to the
 1161 approval of project plans and specifications by the Department of Transportation. All costs incurred by
 1162 the Department of Transportation in administering such contracts shall be reimbursed from the county's
 1163 general revenues or from revenues derived from the sale of bonds or such costs may be charged against
 1164 the funds which the county may be entitled to under the provisions of § 33.1-23.1, *or* 33.1-23.2 ~~or~~

1165 ~~33.1-23.4.~~

1166 B. Projects undertaken under the authority of subsection A of this section shall not diminish the
1167 funds to which a county may be entitled under the provisions of § 33.1-23.1, 33.1-23.2, ~~33.1-23.4,~~ or
1168 33.1-23.05.

1169 C. At the request of the county, the Department of Transportation may agree to undertake the design,
1170 right-of-way acquisition, or construction of projects funded by the county. In such situations, the
1171 Department of Transportation and the county will enter into an agreement specifying all relevant
1172 procedures and responsibilities concerning the design, right-of-way acquisition, construction or contract
1173 administration of projects to be funded by the county. The county will reimburse the Department of
1174 Transportation for all costs incurred by the Department in carrying out the aforesaid activities from
1175 general revenues or revenues derived from the sale of bonds.

1176 D. Notwithstanding any contrary provision of law, any county may undertake activities towards the
1177 design, land acquisition, or construction of primary ~~or secondary system~~ highway projects that ~~have been~~
1178 ~~included in the six-year plan pursuant to § 33.1-70.01, or in the case of a primary highway, an~~ *are*
1179 approved ~~project~~ *projects* included in the six-year improvement program of the Commonwealth
1180 Transportation Board. In such situations, the Department of Transportation and the county shall enter
1181 into an agreement specifying all relevant procedures and responsibilities concerning the design,
1182 right-of-way acquisition, construction, or contract administration of projects to be funded by the
1183 Department. Such activities shall be undertaken with the prior concurrence of the Department of
1184 Transportation, and the Department shall reimburse the county for expenses incurred in carrying out
1185 these activities. Such reimbursement shall be derived from primary ~~or secondary system~~ highway funds
1186 which the county may be entitled to under the provisions of this chapter. The county may undertake
1187 these activities in accordance with all applicable county procedures, provided the Commissioner finds
1188 that those county procedures are substantially similar to departmental procedures and specifications.

1189 E. If funding for the construction of a primary or interstate project is scheduled in the
1190 Commonwealth Transportation Board's Six-Year Improvement Program as defined in § 33.1-12, a
1191 locality may choose to advance funds to the project. If such advance is offered, the Board may consider
1192 such request and agree to such advancement and the subsequent reimbursement of the locality of the
1193 advance in accordance with terms agreed upon by the Board or its designee and the locality.

1194 F. Any county carrying out any construction project as authorized in this section may, in so doing,
1195 exercise the powers granted the Commonwealth Transportation Commissioner under Article 7 (§ 33.1-89
1196 et seq.) of this chapter to enter property for the purpose of making an examination and survey thereof,
1197 with a view to ascertainment of its suitability for highway purposes and any other purpose incidental
1198 thereto.

1199 G. For the purposes of this section, any county without an existing franchise agreement, when
1200 administering a Department-sanctioned project under a land-use permit or transportation project
1201 agreement, shall have the same authority as the Department pertaining to the relocation of utilities.

1202 H. Whenever so requested by any county, funding of any project undertaken as provided in this
1203 section may be supplemented solely by state funds in order to avoid the necessity of complying with
1204 additional federal requirements, provided a determination has been made by the Department that (i)
1205 adequate state funds are available to fully match available federal transportation funds and (ii) the
1206 Department can meet its federal obligation authority, as permitted by federal law.

1207 § 33.1-90. Acquisition of real property which may be needed for transportation projects; sale of
1208 certain real property.

1209 A. When the Commonwealth Transportation Commissioner determines that any real property will be
1210 required in connection with the construction of a transportation project, or project as defined in
1211 § 33.1-268, within a period not exceeding twelve years for the Interstate Highway System or ten years
1212 for any other highway system or transportation project from the time of such determination, and that it
1213 would be advantageous to the Commonwealth to acquire such real property, he may proceed to do so.
1214 The Commonwealth Transportation Commissioner may lease any real property so acquired to the owner
1215 from whom such real property is acquired, if requested by him, and if not so requested, to another
1216 person upon such terms and conditions as in the judgment of the Commissioner may be in the public
1217 interest. If the transportation project contemplated, or project as defined in § 33.1-268, has not been let
1218 to contract or construction commenced within a period of twenty years from the date of the acquisition
1219 of such property and a need for the use of such property has not been determined for any alternative
1220 transportation project, upon written demand of the owner or owners, their heirs or assigns, received
1221 within ninety days from the expiration of such twenty-year period or such extension as provided for in
1222 this section or within thirty days from publication in a newspaper of general circulation in the political
1223 subdivision in which the property is located of a notice of the Commissioner's intent to dispose of such
1224 property and shall notify to the extent practical, the last known owner(s) of said property by certified
1225 mail, such property shall be reconveyed by the Commonwealth of Virginia to such owner or owners,
1226 their heirs or assigns, upon repayment of the original purchase price, without interest. Unless the

1227 reconveyance is concluded no later than six months from the receipt by the Commissioner of a written
 1228 demand, the reconveyance opportunity shall lapse. However, the twenty-year limit established by this
 1229 section within which the Department must let to contract or begin construction in order to avoid
 1230 reconveyance shall be extended by the number of days of delay occasioned by litigation involving the
 1231 project or by the failure of the Commonwealth to receive anticipated federal funds for such project. The
 1232 twenty-year limit may also be extended in those instances when a project is included in the six-year
 1233 improvement program of the Commonwealth Transportation Board ~~or the six-year improvement program~~
 1234 ~~for secondary roads prepared by the county boards of supervisors~~ and where steps have been taken to
 1235 move forward. No such reconveyance shall be required for rights-of-way acquired for future
 1236 transportation improvements at the request of local governing bodies; or for rights-of-way acquired for
 1237 state construction designed to provide future additional lanes or other enhancements to existing
 1238 transportation facilities.

1239 B. If any real property acquired under this article for use in connection with a transportation project
 1240 is subsequently offered for sale by the Department and such property is suitable for independent
 1241 development, the Department shall offer the property for sale at fair market value to the owner from
 1242 whom it was acquired, before such property is offered for sale to any other person. The Commissioner
 1243 shall notify, to the extent practicable, the last known owner of such property by certified mail, and the
 1244 owner shall have thirty days from the date of such notice to advise the Commissioner of his interest in
 1245 purchasing the property. The purchase of the property by the owner from which it was acquired is to be
 1246 concluded no later than six months from the receipt by the Commissioner of a written notice, or the
 1247 purchase opportunity shall lapse. The provisions of this subsection shall apply only to property to which
 1248 the provisions of subsection A of this section do not apply.

1249 C. Subsection B of this section shall not apply to Department projects carried out in cooperation with
 1250 the United States Army Corps of Engineers as part of a nonstructural flood control project. No property
 1251 acquired by the Commonwealth under this article in connection with such a project shall subsequently
 1252 be offered for sale by the Commonwealth, but, if such property is no longer needed by the
 1253 Commonwealth for such project, shall be conveyed to the locality in which such project is located and
 1254 used in connection with the redevelopment. Should property not be used for economic development,
 1255 property will revert to the Commonwealth and shall be used for any purposes deemed appropriate
 1256 including resale.

1257 § 33.1-151. Abandonment of road, landing, or crossing; procedure.

1258 The governing body of any county on its own motion or upon petition of any interested landowner
 1259 may cause any section of the secondary *highway* system ~~of highways~~ *component in that county* or any
 1260 crossing by the road of the lines of a railway company, or crossing by the lines of a railway company
 1261 of the road, deemed by it to be no longer necessary for the uses of the secondary *highway* system ~~of~~
 1262 ~~highways~~ *in that county*, to be abandoned altogether as a public road, a public landing, or as a public
 1263 crossing, as the case may be, by complying substantially with the following procedure:

1264 The governing body of the county shall give notice of intention to abandon any such road, landing,
 1265 or crossing by (a) posting a notice of such application at least three days before the first day of a
 1266 regular term of the circuit court, at the front door of the courthouse of the county in which the section
 1267 of the road, landing, or crossing sought to be abandoned as a public road, landing, or crossing is
 1268 located, or (b) by posting notice in at least three places on and along the road, landing, or crossing
 1269 sought to be abandoned for at least thirty days, and, in either case, by publication in two or more issues
 1270 of some newspaper having general circulation in the county; ~~and the governing body shall also give~~
 1271 ~~notice of its intention to abandon such road, landing, or crossing to the Commonwealth Transportation~~
 1272 ~~Board or the Commissioner thereof.~~ In any case in which the road, landing, or crossing proposed to be
 1273 abandoned lies in two or more counties, the governing bodies concerned shall not abandon such road,
 1274 landing, or crossing unless and until the governing bodies of the other county or counties in which such
 1275 road, landing, or crossing is located agree thereto; the procedure in such cases shall conform mutatis
 1276 mutandis to the procedure prescribed for the abandonment of a road, landing, or crossing located
 1277 entirely within a county.

1278 When the governing body of the county gives notice of intention to abandon any such landing, the
 1279 governing body shall also give such notice to the Department of Game and Inland Fisheries.

1280 Upon petition of one or more landowners in the county whose property abuts on the road, landing,
 1281 or crossing proposed to be abandoned or, if only a section of a road, landing, or crossing is proposed to
 1282 be abandoned, whose property abuts on such section of the road, landing, or crossing or of ~~the~~
 1283 ~~Commonwealth Transportation Board or of~~ the Department of Game and Inland Fisheries, in the case of
 1284 a public landing, filed with the governing body of the county within thirty days after notice is posted
 1285 and published as aforesaid, but not thereafter, the governing body shall hold a public hearing on the
 1286 proposed abandonment and shall give notice of the time and place of the hearing by at least two
 1287 publications thereof in some newspaper having general circulation in the county and shall also give

1288 notice thereof to the Commonwealth Transportation Board or, if a public landing is sought to be
1289 abandoned, to the Department of Game and Inland Fisheries.

1290 If a petition be not filed as aforesaid for a public hearing, or if after a public hearing is held, the
1291 governing body is satisfied that no public necessity exists for the continuance of the section of the
1292 secondary road as a public road, or the crossing as a public crossing, or the landing as a public landing,
1293 or that the safety and welfare of the public would be served best by abandoning the section of road,
1294 landing, or the crossing, as a public road, landing, or crossing, it shall enter (i) within four months next
1295 after the thirty days during which notice was posted where no petition for a public hearing was filed, or
1296 (ii) within four months next after the public hearing an order on its minutes abandoning the section of
1297 road as a public road, or the landing as a public landing, or the crossing as a public crossing as the case
1298 may be, and thereupon the section of road shall cease to be a public road, or a public landing or a
1299 public crossing, as the case may be, or if the governing body be not so satisfied, it shall dismiss the
1300 application within the specified four months.

1301 A finding by the governing body of a county that a section of the secondary highway system of
1302 highways component is no longer necessary for the uses of the county secondary highway system may
1303 be made if the following conditions exist:

1304 A. The road is located within a residence district as the latter is defined in § 46.2-100;

1305 B. The residence district is located within a county having a density of population exceeding 1,000
1306 per square mile;

1307 C. Continued operation of the section of road in question constitutes a threat to the public safety and
1308 welfare; and,

1309 D. Alternate routes for use after abandonment of the road are readily available.

1310 In considering the abandonment of any section of road under the provisions of this section, due
1311 consideration shall be given to the historic value, if any, of such road.

1312 Any order of abandonment issued in compliance with this section shall give rise in subsequent
1313 proceedings, if any, to a presumption of adequate justification for the abandonment.

1314 For the purposes of §§ 33.1-150 through 33.1-154, "landing" shall mean a place on a river or other
1315 navigable body of water for loading or unloading goods, or for the reception and delivery of passengers;
1316 the terminus of a road on a river or other navigable water, for the use of travelers and the loading and
1317 unloading of goods; a place for loading or unloading boats, but not a harbor for them.

1318 However, no public landing shall be abandoned unless the Department of Game and Inland Fisheries
1319 shall, by resolution, concur in such abandonment.

1320 § 33.1-152. Appeal to circuit court.

1321 Any one or more of the landowners whose property abuts on the road, landing, or crossing proposed
1322 to be abandoned or, if only a section of a road, landing, or crossing is proposed to be abandoned, whose
1323 property abuts on such section of the road, landing, or crossing and who petitioned for a public hearing
1324 under § 33.1-151, or the Commonwealth Transportation Commissioner, or, if a public landing is
1325 involved, the Director of Game and Inland Fisheries, may within thirty days from the entry of the order
1326 by the governing body, but not afterwards, appeal from the order to the circuit court of the county in
1327 which the section of road, public landing, or the crossing sought to be abandoned is located. Where the
1328 governing body fails to enter an order pursuant to § 33.1-151, such person or persons named in this
1329 section shall within thirty days from such nonentry, but not afterwards, have a right of appeal to the
1330 appropriate circuit court. Such appeals shall be by petition filed in the clerk's office of such court,
1331 setting out the order appealed from or the cause appealed from where no order was entered and the
1332 grounds of such appeal. Upon the filing of such petition, the clerk of the circuit court shall docket the
1333 appeal, giving it a preferred status, and if the appeal be by any of the landowners who filed a petition
1334 with the governing body for a public hearing shall have notice of such appeal served upon each member
1335 of the governing body of the county pursuant to § 8.01-300 and either the Commonwealth
1336 Transportation Commissioner or, if a public landing is involved, the Director of Game and Inland
1337 Fisheries and if the appeal be by either, notice thereof shall be served upon the governing body of the
1338 county and landowners who filed petition with the governing body for a public hearing. No such appeal
1339 shall be tried by the court within ten days after notice is given, as hereinabove provided, unless such
1340 notice be waived. The circuit court shall decide the appeal based upon the record and upon such other
1341 evidence as may be presented by the parties. Upon the hearing of the appeal, the court shall ascertain
1342 and by its order determine whether adequate justification exists for the decision of the governing body
1343 that public necessity exists for the continuance of the section of road, public landing, or the crossing as
1344 a public road, public landing, or crossing, or that the welfare of the public will be served best by
1345 abandoning the section of the road, public landing, or the said crossing as a public road or crossing and
1346 shall enter its order accordingly.

1347 Upon any such appeal, if it shall appear to the court that by the abandonment of such section of
1348 road, public landing, or such crossing as a public road, public landing, or crossing any party to such
1349 appeal would be deprived of access to a public road, the court may cause the railway company and the

1350 governing body, or either, to be made parties to the proceedings, if not already parties, and may enter
 1351 such orders as seem to it just and proper for keeping open such section of road, public landing, or such
 1352 crossing for the benefit of such party or parties as would by such abandonment be deprived of access to
 1353 a public road.

1354 § 33.1-152.1. Permissible uses by counties of certain discontinued county secondary highway system
 1355 components.

1356 Whenever a *county secondary highway system* ~~highway component~~ is discontinued under ~~§ 33.1-150~~,
 1357 the county governing body may by ordinance provide for use of the property for any of the following
 1358 purposes: (i) hiking or bicycle trails and paths or other nonvehicular transportation and recreation
 1359 purposes; (ii) greenway corridors for resource protection and biodiversity enhancement, with or without
 1360 public ingress and egress; and (iii) access to historic, cultural, and educational sites.

1361 § 33.1-153. Effect of abandonment.

1362 In case of the abandonment of any section of road, public landing, or any crossing under the
 1363 provisions of this article as a part of ~~the any county secondary highway system of highways~~, such
 1364 section of road, public landing, or such crossing, shall not remain a public road, public landing, or
 1365 crossing.

1366 § 33.1-155. Alternative procedure for abandonment of old road or crossing to extent of alteration.

1367 When any road in ~~the any county secondary highway system~~ or any road in ~~the any county secondary~~
 1368 ~~highway system~~ containing a railway-highway grade crossing has been or is altered and a new road
 1369 which serves the same citizens as the old road is constructed in lieu thereof ~~and approved by the~~
 1370 ~~Commonwealth Transportation Commissioner~~, the old road and/or the public crossing may be abandoned
 1371 to the extent of such alteration, but no further, by a resolution of the board of supervisors or other
 1372 governing body of the county, declaring the old road and/or the public crossing abandoned.

1373 § 33.1-156. Application of article; "road" defined.

1374 The provisions of this article shall apply mutatis mutandis to county roads maintained by a county
 1375 and not part of ~~the any county secondary highway system~~, and to roads dedicated to the public but
 1376 which are not parts of the State Highway System; ~~or the secondary highway system~~. The term "road"
 1377 shall include streets and alleys in case of dedication to the public and shall likewise include an existing
 1378 crossing by the lines of a railway company of such road and a crossing by such road of the lines of a
 1379 railway company.

1380 § 33.1-157. Abandonment of certain roads and railway crossings by governing body of county.

1381 When a section of a road not in ~~the any county secondary highway system~~ is deemed by the
 1382 governing body of the county; ~~hereinafter in this article referred to as governing body~~; no longer
 1383 necessary for public use, or an existing crossing by such road of the lines of a railway company, or a
 1384 crossing by the lines of a railway company of such road, is deemed by such governing body no longer
 1385 necessary for public use, the governing body by proceeding as hereinafter prescribed may abandon the
 1386 section of the road no longer deemed necessary for public use, or such crossing by the road of the lines
 1387 of a railway company, or crossing by the lines of the railway company of the road, as the case may be.

1388 In considering the abandonment of any section of road under the provisions of this section, due
 1389 consideration shall be given to the historic value, if any, of such road.

1390 § 33.1-168. Abandonment of road in area to be flooded for purpose of municipal water supply.

1391 Whenever any city or town which owns and operates a waterworks system for the purpose of
 1392 supplying such city or town and its inhabitants with water finds it necessary to enlarge its water supply,
 1393 for the accomplishment of which it is necessary to impound the water of a stream without the corporate
 1394 limits of such city or town, by means of a dam erected in such stream, and the impounding of the water
 1395 thereof would result in the overflow, or flooding, of a section or sections of a road or roads within ~~the~~
 1396 ~~any county's secondary highway system of state highways~~, thereby necessitating the alteration and
 1397 relocation of the road or roads and the council of the city or town shall by ordinance declare such
 1398 necessity and that it is the intention of such city or town to comply with the requirements of this article,
 1399 as hereinafter set forth, the road proposed to be flooded may be discontinued and abandoned but only
 1400 after the city or town has complied with the provisions and requirements of §§ 33.1-169 through
 1401 33.1-174.

1402 § 33.1-175. New road part of county secondary highway system; former road to vest in municipality.

1403 When the city or town shall have been notified by the Commonwealth Transportation Commissioner
 1404 of final approval of the construction of the road or highway, the same shall immediately become a part
 1405 of the secondary *highway system of state highways the county in which it is located* and the public shall
 1406 be vested with the same rights of travel thereover as it possesses with respect to the other highways in
 1407 ~~the such~~ system. And thereupon the part of the road or highway which it is proposed to flood shall be
 1408 deemed to be abandoned and all public rights therein shall vest in the city or town.

1409 § 33.1-181. Article applicable to county roads.

1410 The foregoing sections of this article shall also apply to dams, and to the owners and occupiers

1411 thereof over which pass public roads which are not in the State Highway System or *any county*
 1412 *secondary highway* system of ~~state highways~~. As to any such dam and the owner or occupier thereof,
 1413 the powers hereinabove in this article conferred and imposed upon the Commissioner shall be vested in
 1414 and imposed upon the board of supervisors or other governing body of the county in which such dam is
 1415 located.

1416 § 33.1-182. Route names.

1417 All laws now in effect designating certain names for certain routes or combinations of routes in the
 1418 State Highway System and/or ~~the any county secondary highway~~ system of ~~state highways~~, as hereafter
 1419 amended, are continued in effect.

1420 § 33.1-196. Oiling of highways.

1421 The Commonwealth Transportation Board may oil the highways in any town in this Commonwealth
 1422 upon request of the council thereof and may oil the highways in any county of this Commonwealth, the
 1423 ~~secondary roads within which are not a part of the secondary system of state highways~~, upon request of
 1424 the board of supervisors or other governing body thereof; provided that such council or such board of
 1425 supervisors or other governing body, as the case may be, shall pay to the Commonwealth Transportation
 1426 Board the cost of such oiling. This section does apply to any highway which is a part of the State
 1427 Highway System ~~or the secondary system of state highways~~.

1428 § 33.1-205. Sidewalks and walkways for pedestrian traffic.

1429 The Commonwealth Transportation Board may construct such sidewalks or walkways on the bridges
 1430 and along the highways under its jurisdiction as it deems necessary for the protection of pedestrian
 1431 traffic.

1432 All the provisions of general law with respect to the acquisition of lands and interests therein and the
 1433 construction, reconstruction, alteration, improvement and maintenance of highways in the primary ~~and~~
 1434 ~~secondary systems~~ *system* of state highways, including the exercise of the power of eminent domain by
 1435 the Commonwealth Transportation Board and the Commonwealth Transportation Commissioner, shall be
 1436 applicable to such sidewalks and walkways.

1437 § 33.1-210. Livestock on right-of-way of any system of state highways.

1438 No person, firm or corporation shall pasture or graze, or cause to be pastured or grazed, or otherwise
 1439 permit to be on any right-of-way of any road in ~~any the state primary highway~~ system of ~~state~~
 1440 ~~highways~~, except as herein otherwise provided, any livestock, unless such animal or animals be securely
 1441 tied or held by chain or rope so as to prevent such animal from getting on the traveled portion of the
 1442 highway; ~~provided, however, that this.~~ *This* section shall not apply when such livestock ~~are~~ *is* being
 1443 driven along such road or right-of-way while under the control of a responsible drover or drovers.

1444 However, nothing in this section shall prevent the owners of abutting parcels of land from grazing
 1445 livestock unsecured by chain or rope on secondary roads which (i) have been taken into the system as
 1446 gated roads and (ii) carry fewer than fifty vehicles per day.

1447 On gated roads carrying fifty or more vehicles per day, the Department of Transportation shall, upon
 1448 the request of the local governing body and upon the recordation of a deed of gift or donation by such
 1449 landowner of not less than forty-foot right-of-way, reimburse abutting landowners a sum equal to one
 1450 dollar per foot of fencing which must be installed to keep cattle from entering the right-of-way from
 1451 such abutting land. Where such fencing separates pasture land from a water source used by the owner of
 1452 such pasture land to water his livestock, the Department of Transportation shall construct or have
 1453 constructed a means of access by which stock may reach the water source from the pasture land.
 1454 Moneys for such fencing and construction of access to water shall be taken from highway construction
 1455 funds. For purposes of this section, a "gated" road is a road on which, prior to July 1, 1986, abutting
 1456 landowners have maintained a gate or cattle guard.

1457 Any person, firm or corporation who shall violate any of the provisions of this article shall be fined
 1458 not less than ten dollars nor more than fifty dollars for such offense.

1459 Nothing herein shall be construed to transfer the liability for injuries or property damage caused by
 1460 such grazing livestock.

1461 § 33.1-211. Tramways and railways along or across public highways.

1462 Whenever any person, firm, or chartered company engaged in mining, manufacturing or lumber
 1463 getting has acquired the right-of-way for a tramway or railway, except across or upon a public highway,
 1464 and desires to cross such highway, or some part thereof, and if such person, firm or chartered company
 1465 cannot agree with the Commonwealth Transportation Commissioner, or board of supervisors or other
 1466 governing body of a county if the road be a county road in a county the roads of which are not within
 1467 the ~~secondary system of state highways~~ *secondary highway system component*, as to the terms and
 1468 conditions of such crossing, the circuit court of the county in which such highway may be, may
 1469 prescribe such regulations for the crossing of such highway as will protect the public, and when such
 1470 regulations have been prescribed such tramway or railway may be constructed and maintained or, if
 1471 already constructed, may be maintained in accordance with such regulations as may be made on the
 1472 application of the owner of such tramway or railway or on the motion of the attorney for the

1473 Commonwealth after notice to such owner.

1474 § 33.1-217. Establishment of recreational waysides.

1475 (a) To promote the safety, convenience and enjoyment of travel on, and protection of the public
1476 investment in, highways of this Commonwealth, and for the restoration, preservation, and enhancement
1477 of scenic beauty within and adjoining such highways, it is hereby declared to be in the public interest to
1478 acquire and establish recreational waysides and areas of scenic beauty adjoining the highways of this
1479 Commonwealth.

1480 (b) The Commonwealth Transportation Commissioner may, whenever in his opinion it is to the best
1481 interest of the Commonwealth, accept from the United States, or any authorized agency thereof, a grant
1482 or grants of any recreational waysides established and constructed by the United States, or any such
1483 agency thereof, or a grant or grants of funds for landscaping and scenic enhancement of highways, and
1484 the Commissioner may, on behalf of the Commonwealth, enter into a contract or contracts with the
1485 United States or any such agency to maintain and operate any such recreational waysides which may be
1486 so granted to the Commonwealth and may do all things necessary to receive and expend federal funds
1487 for landscaping and scenic enhancement.

1488 (c) The Commissioner may, whenever it is to the best interest of the operation of the interstate, *or*
1489 the primary ~~or the secondary~~ system of state highways, establish, construct, maintain, and operate
1490 adjoining the state highway appropriate recreational waysides and areas of scenic beauty.

1491 (d) The Commissioner is authorized to acquire by purchase, gift or the power of eminent domain
1492 such land or interest in land as may be necessary to carry out the provisions of this section, provided
1493 that in exercising the power of eminent domain for areas of scenic beauty such areas must adjoin and lie
1494 within one hundred feet of the right-of-way of the highway, and the procedure shall be mutatis mutandis
1495 the same as provided for the acquisition of land by the Commonwealth Transportation Commissioner in
1496 Article 7 (§ 33.1-89 et seq.) of this chapter.

1497 § 33.1-219. Such waysides part of interstate or primary system.

1498 Such recreational waysides and areas of scenic beauty, when so acquired, established, maintained,
1499 and operated shall be deemed to be a part of the interstate, *or* primary ~~or secondary~~ system, but land
1500 acquired for areas of scenic beauty shall not be deemed a part of the right-of-way for the purpose of
1501 future acquisition of areas of scenic beauty under the provisions of § 33.1-217.

1502 § 33.1-221. Funds for access roads to economic development sites and airports; construction,
1503 maintenance, etc., of such roads.

1504 A. Notwithstanding any other provision of law, there shall be appropriated to the Commonwealth
1505 Transportation Board funds derived from taxes on motor fuels, fees and charges on motor vehicle
1506 registrations, road taxes or any other state revenue allocated for highway purposes, which shall be used
1507 by the Board for the purposes hereinafter specified, after deducting the costs of administration before
1508 any of such funds are distributed and allocated for any road or street purposes.

1509 Such funds shall be expended by the Board for constructing, reconstructing, maintaining or
1510 improving access roads within counties, cities and towns to economic development sites on which
1511 manufacturing, processing, research and development facilities, distribution centers, regional service
1512 centers, corporate headquarters, or other establishments that also meet basic employer criteria as
1513 determined by the Virginia Economic Development Partnership in consultation with the Virginia
1514 Department of Business Assistance will be built under firm contract or are already constructed and to
1515 licensed, public-use airports; in the event there is no such establishment or airport already constructed or
1516 for which the construction is under firm contract, a county, city, or town may guarantee to the Board by
1517 bond or other acceptable device that such will occur and, should no establishment or airport acceptable
1518 to the Board be constructed or under firm contract within the time limits of the bond, such bond shall
1519 be forfeited. The time limits of the bond shall be based on regular review and consideration by the
1520 Board. Towns which receive highway maintenance payments under § 33.1-41.1 shall be considered
1521 separately from the counties in which they are located when receiving allocations of funds for access
1522 roads.

1523 B. In deciding whether or not to construct or improve any such access road, and in determining the
1524 nature of the road to be constructed, the Board shall base its considerations on the cost thereof in
1525 relation to the volume and nature of the traffic to be generated as a result of developing the airport or
1526 the economic development site. Within any economic development site or airport, the total volume of
1527 traffic to be generated shall be taken into consideration in regard to the overall cost thereof. No such
1528 access road shall be constructed or improved on a privately owned economic development site.

1529 C. Any access road constructed or improved under this section shall constitute a part of the *county*
1530 secondary *highway* system ~~of state highways~~ or the road system of the locality in which it is located and
1531 shall thereafter be constructed, reconstructed, maintained and improved as other roads in such system.

1532 § 33.1-221.1:2. U.S. Route 58 Corridor Development Program.

1533 A. The General Assembly declares it to be in the public interest that the economic development

1534 needs and economic growth potential of south-central and southwestern Virginia be addressed by a
1535 special nonreverting fund which shall be a part of the Transportation Trust Fund and which shall be
1536 known as the U.S. Route 58 Corridor Development Fund as established in § 58.1-815 (the Fund).
1537 Moneys contained in the Fund shall be used for the costs of providing an adequate, modern, safe, and
1538 efficient highway system, generally along Virginia's southern boundary (the Program), including without
1539 limitation, environmental and engineering studies, rights of way acquisition, construction, improvements
1540 and financing costs.

1541 B. Allocations from this Fund shall be made annually by the Commonwealth Transportation Board
1542 for the creation and enhancement of a safe, efficient, highway system connecting the communities,
1543 businesses, places of employment, and residents of the southwestern-most portion of the Commonwealth
1544 to the communities, businesses, places of employment, and residents of the southeastern-most portion of
1545 the Commonwealth, thereby enhancing the economic development potential, employment opportunities,
1546 mobility and quality along such highway.

1547 C. Allocations from the Fund shall not diminish or replace allocations made or planned to be made
1548 from other sources or diminish allocations to which any highway, project, facility, district, system, or
1549 locality would be entitled under other provisions of this title, but shall be supplemental to other
1550 allocations to the end that highway resource improvements in the U.S. Route 58 Corridor may be
1551 accelerated and augmented. Allocations from the Fund may be applied to highway projects in the
1552 interstate, primary, *or county* secondary, ~~or urban~~ system, contrary provisions of this title
1553 notwithstanding. Allocations under this subsection shall not be limited to projects involving only existing
1554 U.S. Route 58, but may be made to projects involving other highways, provided that the broader goal of
1555 creation of an adequate modern highway system generally along Virginia's southern boundary is served
1556 thereby.

1557 D. The Commonwealth Transportation Board may expend such funds from all sources as may be
1558 lawfully available to initiate the Program and to support bonds and other obligations referenced in
1559 subsection F of this section. Any moneys expended from the Transportation Trust Fund for the Program,
1560 other than moneys contained in the Fund, may be reimbursed from the Fund, to the extent permitted by
1561 Article X, Section 9 of the Constitution of Virginia. In the event funds from the U.S. Route 58 Corridor
1562 Development Fund are used for projects contained in the Department's fiscal year 1988-89 Six-Year
1563 Improvement Program and related to the purposes of this section, such funds shall be reimbursed to the
1564 U.S. Route 58 Corridor Development Fund from the Transportation Trust Fund not to exceed the
1565 amounts allocated to such projects in the Program.

1566 E. The Commonwealth Transportation Board is encouraged to utilize the existing four-lane divided
1567 highways, available rights-of-way acquired for additional four-laning, bypasses, connectors, and alternate
1568 routes.

1569 F. To the extent permitted by Article X, Section 9 of the Constitution of Virginia, moneys contained
1570 in the Fund may be used to secure payment of bonds or other obligations, and the interest thereon,
1571 issued in furtherance of the purposes of this section. In addition, the Commonwealth Transportation
1572 Board is authorized to receive, dedicate or use legally available Transportation Trust Fund revenues and
1573 any other available sources of funds to secure the payment of bonds or other obligations, including
1574 interest thereon, in furtherance of the Program. No bond or other obligations payable from revenues of
1575 the Fund shall be issued unless specifically approved by the General Assembly. No bond or other
1576 obligations, secured in whole or in part by revenues of the Fund, shall pledge the full faith and credit of
1577 the Commonwealth.

1578 G. Forty million dollars shall be transferred annually to the Fund with the first such transfer to be
1579 made on July 1, 1990, or as soon thereafter as reasonably practicable. Such transfer shall be made by
1580 the issuance of a treasury loan at no interest in the amount of \$40 million to the Fund to ensure that the
1581 Fund is fully funded on the first day of the fiscal year. Such treasury loan shall be repaid from the
1582 Commonwealth's portion of the state recordation tax imposed by Chapter 8 of Title 58.1 designated for
1583 the Fund by § 58.1-815. For each fiscal year following July 1, 1990, the Secretary of Finance is
1584 authorized to make additional treasury loans in the amount of \$40 million on July 1 of such fiscal years,
1585 and such treasury loans shall be repaid in a like manner as provided in the preceding sentence.

1586 § 33.1-223. Fund for access roads and bikeways to public recreational areas and historical sites;
1587 construction, maintenance, etc., of such facilities.

1588 A. The General Assembly finds and declares that there is an increasing demand by the public for
1589 more public recreational areas throughout the Commonwealth, therefore creating a need for more access
1590 to these areas. There are also many sites of historical significance to which access is needed.

1591 The General Assembly hereby declares it to be in the public interest that access roads and bikeways
1592 to public recreational areas and historical sites be provided by using funds obtained from motor fuel tax
1593 collections on motor fuel used for propelling boats and ships and funds contained in the highway portion
1594 of the Transportation Trust Fund.

1595 B. The Commonwealth Transportation Board shall, from funds allocated to the primary system;

1596 ~~secondary system, or urban system~~ of state highways, set aside the sum of \$3 million initially. This fund
 1597 shall be expended by the Board for the construction, reconstruction, maintenance or improvement of
 1598 access roads and bikeways ~~within counties, cities and towns in the state primary system~~. At the close of
 1599 each succeeding fiscal year the Board shall replenish this fund to the extent it deems necessary to carry
 1600 out the purpose intended, provided the balance in the fund plus the replenishment does not exceed the
 1601 aforesaid \$3 million.

1602 C. Upon the setting aside of the funds as herein provided, the Commonwealth Transportation Board
 1603 shall construct, reconstruct, maintain or improve access roads and bikeways to public recreational areas
 1604 and historical sites upon the following conditions:

1605 1. When the Director of the Department of Conservation and Recreation has designated a public
 1606 recreational area as such or when the Director of the Department of Historic Resources has determined a
 1607 site or area to be historic and recommends to the Commonwealth Transportation Board that an access
 1608 road or bikeway be provided or maintained to that area; *and*

1609 2. When the Commonwealth Transportation Board pursuant to the recommendation from the Director
 1610 of the Department of Conservation and Recreation declares by resolution that the access road or bikeway
 1611 be provided or maintained;

1612 3. ~~When the governing body of the county, city or town in which the access road or bikeway is to~~
 1613 ~~be provided or maintained passes a resolution requesting the road; and~~

1614 4. ~~When the governing body of the county, city or town in which the bikeway is to be provided or~~
 1615 ~~maintained adopts an ordinance pursuant to Article 7 (§ 15.2-2280 et seq.) of Chapter 22 of Title 15.2.~~

1616 No access road or bikeway shall be constructed, reconstructed, maintained or improved on privately
 1617 owned property.

1618 D. Any access road constructed, reconstructed, maintained or improved pursuant to the provisions of
 1619 this section shall become part of the primary system of state highways; ~~the secondary system of state~~
 1620 ~~highways or the road system of the locality in which it is located in the manner provided by law, and~~
 1621 ~~shall thereafter be constructed, reconstructed, maintained and improved as other roads in such systems.~~
 1622 Any bikeway path constructed, reconstructed, maintained, or improved pursuant to the provisions of this
 1623 section which is not situated within the right-of-way limits of an access road which has become, or
 1624 which is to become, part of the primary system of state highways; ~~the secondary system of state~~
 1625 ~~highways, or the road system of the locality,~~ shall, upon completion, become part of and be regulated
 1626 and maintained by the authority or agency maintaining the public recreational area or historical site. It
 1627 shall be the responsibility of the authority, agency, or locality requesting that a bicycle path be provided
 1628 for a public recreational or historical site to provide the right-of-way needed for the construction,
 1629 reconstruction, maintenance, or improvement of the bicycle path if such is to be situated outside the
 1630 right-of-way limits of an access road.

1631 To maximize the impact of the Fund, not more than \$400,000 of recreational access funds may be
 1632 allocated for each individual access road project to or within any public recreational area or historical
 1633 site operated by a state agency and not more than \$250,000 for each individual access road project to or
 1634 within a public recreational area or historical site operated by a locality or an authority with an
 1635 additional \$100,000 if supplemented on a dollar-for-dollar basis by the locality or authority from other
 1636 than highway sources. Not more than \$75,000 of recreational access funds may be allocated for each
 1637 individual bikeway project to a public recreational area or historical site operated by a state agency and
 1638 not more than \$60,000 for each individual bikeway project to a public recreational area or historical site
 1639 operated by a locality or an authority with an additional \$15,000 if supplemented on a dollar-for-dollar
 1640 basis by a locality or authority from other than highway sources.

1641 The Commonwealth Transportation Board, with the concurrence of the Director of the Department of
 1642 Conservation and Recreation, is hereby authorized to make regulations to carry out the provisions of this
 1643 section.

1644 § 33.1-223.2:3. Directional signs for certain educational institutions.

1645 Upon request from the institution, the Commissioner shall erect and maintain, at appropriate and
 1646 conspicuous locations along interstate; *or* primary; ~~or secondary~~ highways, signs providing motorists
 1647 directions to the main or branch location of any Virginia educational institution. All costs associated
 1648 with production and erection of signs under this section shall be borne by the affected institution, but all
 1649 costs associated with maintenance of those signs shall be borne by the Virginia Department of
 1650 Transportation. For the purpose of this section, "Virginia educational institution" means a for-profit
 1651 educational institution with its main campus located in Virginia that (i) has, for at least five consecutive
 1652 years prior to making a request under this section, awarded academic degrees approved by the State
 1653 Council of Higher Education; (ii) offers programs in workforce training or job readiness that contribute
 1654 to Virginia's economic growth and development; and (iii) has a combined annual enrollment of at least
 1655 1,000 students at its main campus and any branch location situated within a radius of twenty-five miles
 1656 from the main campus. Signs erected by the Virginia Department of Transportation under this section

1657 shall be placed in accordance with all applicable Departmental regulations.

1658 § 33.1-224. Transfer of streets, etc., from secondary system to local authorities.

1659 Whenever any incorporated town has a population of more than 3,500 inhabitants, all the roads,
1660 streets, causeways, bridges, landings and wharves in such town theretofore incorporated within the
1661 secondary system of state highways *or any county secondary highway system* shall be eliminated from
1662 such system and the control and jurisdiction over them shall be vested in the local authorities. This
1663 section shall in no way affect the rights of such towns to receive the benefits provided elsewhere in this
1664 title.

1665 § 33.1-228.1. Agreements between localities for construction and operation of toll facilities.

1666 The governing bodies of adjacent counties, cities, and towns may enter into agreements providing for
1667 the construction and operation of highways, bridges, and ferries within their boundaries and for the
1668 imposition and collection of tolls for the use of such facilities. Such tolls may be in whatever amount,
1669 subject to whatever conditions, and expended for whatever purposes provided for in such agreements.
1670 Such agreements shall provide for the design, land acquisition, or construction of *state primary highway*
1671 *system* or *county secondary highway system* projects that ~~have been included in the six-year plan~~
1672 ~~pursuant to § 33.1-70.01, or in the case of a primary highway, an approved project~~ *are projects* included
1673 in the six-year improvement program of the Commonwealth Transportation Board. Such agreements
1674 shall specify relevant procedures and responsibilities concerning the design, right-of-way acquisition,
1675 construction, and contract administration of such projects. Any facility constructed pursuant to the
1676 authority granted in the section shall be constructed in accordance with the applicable standards of the
1677 Virginia Department of Transportation for such facility. Prior to executing any agreement pursuant to
1678 this section, a joint public hearing shall be held concerning the benefits of and need for as well as the
1679 location and design of the facility.

1680 § 33.1-229. Continuance of powers of county authorities; alternative procedure.

1681 The local road authorities shall continue to have the powers vested in them on June 20, 1932, for the
1682 establishment of new roads in their respective counties, which shall, upon such establishment, become
1683 parts of the ~~counties' secondary system of state highways within such counties~~ *highway systems*. They
1684 shall likewise have the power to alter or change the location of any road ~~now~~ in the ~~counties' secondary~~
1685 ~~highway system of state highways systems~~ within such counties or which may hereafter become a part
1686 of the ~~counties' secondary system of state highways within such counties~~ *highway systems*. The
1687 Commonwealth Transportation Commissioner shall be made a party to any proceeding before the local
1688 road authorities for the establishment of any such road or for the alteration or change of the location of
1689 any such road. When any such board or commission appointed by the board of supervisors or other
1690 governing body of a county to view a proposed road or to alter or change the location of an existing
1691 road shall award damages for the right-of-way for the same, in either case to be paid in money, it may
1692 be paid by the board of supervisors or other governing body of the county out of the general county
1693 levy funds. No expenditure by the Commonwealth shall be required upon any new road so established
1694 or any old road the location of which is altered or changed by the local road authorities, except as may
1695 be approved by the Commissioner. If the property sought to be taken is for the easement or
1696 right-of-way, the plat shall reasonably indicate thereon any appurtenant right-of-way or easement for
1697 ingress and egress to and from the principal easement or right-of-way being taken.

1698 As an alternative to the method of establishing or relocating a road provided in the preceding
1699 paragraph, the Commissioner, by and with the approval of the Commonwealth Transportation Board and
1700 the board of supervisors or other governing body of a county shall have power and authority to make
1701 such changes in routes in, and additions to, the secondary system of state highways from time to time as
1702 the public safety or convenience may require.

1703 The service of any process or notice in any such proceedings upon the district engineer of the
1704 Department of Transportation having the supervision of maintenance and construction of highways in
1705 any such county shall be termed sufficient service on the Commissioner.

1706 § 46.2-206. Disposition of fees.

1707 Except as otherwise provided in this title, all fees and moneys collected pursuant to the provisions of
1708 Chapters 1, 2, 3, 6, 8, 10, 12, and 16 through 26 of this title shall be paid into the state treasury, and
1709 warrants for the expenditure of funds necessary for the proper enforcement of this title shall be issued
1710 by the Comptroller on certificates of the Commissioner or his representatives, designated by him and
1711 bonded, that the parties are entitled thereto, and shall be paid by the State Treasurer out of such funds,
1712 not exceeding the amount appropriated in the general appropriation ~~bill~~ *act*.

1713 These funds, except as is otherwise provided in this section, shall constitute special funds within the
1714 Commonwealth Transportation Fund to be expended (i) under the direction of the Commonwealth
1715 Transportation Commissioner for the construction, reconstruction, and maintenance of roads and bridges
1716 in the state highway system, *and the interstate highway system, and secondary system of state highways*
1717 and (ii) as authorized by the Commissioner for the expenses incident to the maintenance of the
1718 Department, including its customer service centers, and for other expenses incurred in the enforcement

1719 of this title. Any funds available for construction or reconstruction under the provisions of this section
 1720 shall be, as nearly as possible, equitably apportioned by the Commonwealth Transportation Commission
 1721 among the several construction districts. Beginning July 1, 1998, any balances remaining in these funds
 1722 at the end of the fiscal year shall be available for use in subsequent years for the purposes set forth in
 1723 this section, and any interest income on such funds shall accrue to the respective individual special
 1724 funds.

1725 There may be paid out of these funds such sums as may be provided by law for (i) contributions
 1726 toward the construction, reconstruction, and maintenance of streets in cities or towns and (ii) the
 1727 operation and maintenance of the Department of Transportation, the Department of Rail and Public
 1728 Transportation, the Department of Aviation, the Virginia Port Authority, the Department of State Police,
 1729 and the Department of Motor Vehicles.

1730 § 46.2-809. Regulation of truck traffic on primary highway system components.

1731 The Commonwealth Transportation Board, or its designee, in response to a formal request by a local
 1732 governing body, after such body has held public hearings, may, after due notice and a proper hearing,
 1733 prohibit or restrict the use by through traffic of any part of a primary ~~or secondary~~ highway system
 1734 component if a reasonable alternate route is provided. The Board, or its designee, shall act upon any
 1735 such formal request within nine months of its receipt, unless good cause is shown. Such restriction may
 1736 apply to any truck or truck and trailer or semitrailer combination, except a pickup or panel truck, as
 1737 may be necessary to promote the health, safety, and welfare of the citizens of the Commonwealth.
 1738 Nothing in this section shall affect the validity of any city charter provision or city ordinance heretofore
 1739 adopted.

1740 The provisions of this section shall not apply in (i) cities, (ii) any town which maintains its own
 1741 system of streets, and (iii) in any county ~~which owns, operates, and maintains its own system of roads~~
 1742 ~~and streets.~~

1743 § 46.2-873. Maximum speed limits at school crossings; penalty.

1744 A. The maximum speed limit shall be twenty-five miles per hour between portable signs, tilt-over
 1745 signs, or fixed blinking signs placed in or along any highway and bearing the word "school" or "school
 1746 crossing." Any signs erected under this section shall be placed not more than 600 feet from the limits of
 1747 the school property or crossing in the vicinity of the school. However, "school crossing" signs may be
 1748 placed in any location if the Department of Transportation or the council of the city or town or the
 1749 board of supervisors of a county ~~maintaining~~, *as to its own secondary highway system of secondary*
 1750 ~~roads~~ *components*, approves the crossing for such signs. If the portion of the highway to be posted is
 1751 within the limits of a city or town, such portable signs shall be furnished and delivered by such city or
 1752 town. If the portion of highway to be posted is outside the limits of a city or town, such portable signs
 1753 shall be furnished and delivered by the Department of Transportation. The principal or chief
 1754 administrative officer of each school or a school board designee, preferably not a classroom teacher,
 1755 shall place such portable signs in the highway at a point not more than 600 feet from the limits of the
 1756 school property and remove such signs when their presence is no longer required by this section. Such
 1757 portable signs, tilt-over signs, or fixed blinking signs shall be placed in a position plainly visible to
 1758 vehicular traffic approaching from either direction, but shall not be placed so as to obstruct the roadway.

1759 B. Such portable signs, tilt-over signs, or blinking signs shall be in a position, or be turned on, for
 1760 thirty minutes preceding regular school hours, for thirty minutes thereafter, and during such other times
 1761 as the presence of children on such school property or going to and from school reasonably requires a
 1762 special warning to motorists. The governing body of any county, city, or town may, however, decrease
 1763 the period of time preceding and following regular school hours during which such portable signs,
 1764 tilt-over signs, or blinking signs shall be in position or lit if it determines that no children will be going
 1765 to or from school during the period of time that it subtracts from the thirty-minute period.

1766 C. The governing body of any city or town may, if the portion of the highway to be posted is within
 1767 the limits of such city or town, increase or decrease the speed limit provided in this section only after
 1768 justification for such increase or decrease has been shown by an engineering and traffic investigation,
 1769 and no such increase or decrease in speed limit shall be effective unless such increased or decreased
 1770 speed limit is conspicuously posted on the portable signs, tilt-over signs, or fixed blinking signs required
 1771 by this section.

1772 D. Any city having a population of 390,000 or more may establish school zones as provided in this
 1773 section and mark such zones with flashing warning lights as provided in this section on and along all
 1774 highways adjacent to Route 58.

1775 E. Any person operating any motor vehicle in excess of a maximum speed limit established
 1776 specifically for a school crossing zone, when such school crossing zone is (i) indicated by appropriately
 1777 placed signs displaying the maximum speed limit and (ii) in operation pursuant to subsection B of this
 1778 section shall be guilty of a traffic infraction punishable by a fine of not more than \$250, in addition to
 1779 other penalties provided by law.

1780 For the purposes of this section, "school crossing zone" means an area located within the vicinity of
 1781 a school at or near a highway where the presence of children on such school property or going to and
 1782 from school reasonably requires a special warning to motorists. Such zones are marked and operated in
 1783 accordance with the requirements of this section with appropriate warning signs or other traffic control
 1784 devices indicating that a school crossing is in progress.

1785 F. Notwithstanding the foregoing provisions of this section, the maximum speed limit in school zones
 1786 in residential areas may be decreased to fifteen miles per hour if (i) the school board having jurisdiction
 1787 over the school nearest to the affected school zone passes a resolution requesting the reduction of the
 1788 maximum speed limit for such school zone from twenty-five miles per hour to fifteen miles per hour
 1789 and (ii) the local governing body of the jurisdiction in which such school is located enacts an ordinance
 1790 establishing the speed-limit reduction requested by the school board.

1791 § 46.2-878.2. Maximum speed limits in certain residence districts of counties, cities, and towns;
 1792 penalty.

1793 Operation of any motor vehicle in excess of a maximum speed limit established for a highway in a
 1794 residence district of a county, city, or town, when indicated by appropriately placed signs displaying the
 1795 maximum speed limit and the penalty for violations, shall be unlawful and constitute a traffic infraction
 1796 punishable by a fine of \$200, in addition to other penalties provided by law. No portion of the fine shall
 1797 be suspended unless the court orders 20 hours of community service. The Commonwealth Transportation
 1798 Board or any local governing body having jurisdiction over highways shall develop criteria for the
 1799 overall applicability for the installation of signs. Such criteria shall not exclude highways, functionally
 1800 classified as minor arterials, serving areas that either (i) were built as residential developments or (ii)
 1801 have grown to resemble residential developments, provided, in either case, (i) such highways are
 1802 experiencing documented speeding problems and (ii) the local governing body requests the application
 1803 of this section to such highway. Such signs may be installed in any town and shall not require the
 1804 approval of the county within which such town is located. Any such signs installed in any town shall be
 1805 paid for by the town requesting the installation of the signs; ~~or out of the county's secondary system~~
 1806 ~~construction allocation.~~

1807 § 46.2-931. Certain localities may prohibit or regulate distribution of handbills, etc., solicitation of
 1808 contributions and sale of merchandise on highways within their boundaries.

1809 A. Arlington and Henrico Counties and the Town of Vienna are hereby authorized to adopt
 1810 ordinances prohibiting or regulating:

1811 1. The distribution of handbills, leaflets, bulletins, literature, advertisements, or similar material to the
 1812 occupants of motor vehicles on *county secondary highway system components* and ~~urban~~ highways
 1813 ~~located within their boundaries under the control of municipalities;~~

1814 2. The solicitation of contributions of any nature from the occupants of motor vehicles on *county*
 1815 *secondary highway system components* and ~~urban~~ highways ~~located within their boundaries under the~~
 1816 ~~control of municipalities;~~ and

1817 3. The sale of merchandise or the attempted sale of merchandise to the occupants of motor vehicles
 1818 on *county secondary highway system components* and ~~urban~~ highways ~~located within their boundaries~~
 1819 ~~under the control of municipalities.~~

1820 B. Albemarle and Greene Counties are hereby authorized to adopt ordinances regulating:

1821 1. The distribution of handbills, leaflets, bulletins, literature, advertisements, or similar material to the
 1822 occupants of motor vehicle on public roadways and medians;

1823 2. The solicitation of contributions of any nature from the occupants of motor vehicles on public
 1824 roadways and medians; and

1825 3. The sale of merchandise or the attempted sale of merchandise to the occupants of motor vehicles
 1826 on public roadways and medians.

1827 C. Ordinances adopted pursuant to this section may provide that any person violating the provisions
 1828 of such ordinances shall be guilty of a traffic infraction.

1829 D. The Virginia Department of Transportation may regulate activities within such streets and
 1830 highways under its jurisdiction, subject to regulations promulgated by the Commonwealth Transportation
 1831 Board. Nothing in this section shall be construed to allow any locality to permit activities within any
 1832 highway under the maintenance and operational jurisdiction of the Virginia Department of
 1833 Transportation.

1834 § 46.2-1104. Reduction of limits by Commonwealth Transportation Commissioner and local
 1835 authorities; penalties.

1836 The Commonwealth Transportation Commissioner, acting through employees of the Department of
 1837 Transportation, may prescribe the weight, width, height, length, or speed of any vehicle or combination
 1838 of vehicles passing over any highway or section of highway or bridge constituting a part of the
 1839 interstate, *or primary, or secondary* system of highways. Any limitations thus prescribed may be less
 1840 than those prescribed in this title whenever an engineering study discloses that it would promote the
 1841 safety of travel or is necessary for the protection of any such highway.

1842 If the reduction of limits as provided in this section is to be effective for more than 90 days, a
 1843 written record of this reduction shall be kept on file at the central office of the Department of
 1844 Transportation. In instances where the limits, including speed limits, are to be temporarily reduced, the
 1845 representative of the Department of Transportation in the ~~county~~ *locality* wherein such highway is
 1846 located shall immediately notify the Chief Engineer for the Department of Transportation of such
 1847 reduction. The Chief Engineer shall either affirm or rescind the action of reducing such limits within
 1848 five days from the date the limits have been posted as hereinafter provided. A list of all highways on
 1849 which there has been a reduction of limits as herein provided shall be kept on file at the central office
 1850 of the Department of Transportation. Anyone aggrieved by such reduction of limits may appeal directly
 1851 to the Commonwealth Transportation Commissioner for redress, and if he affirms the action of reducing
 1852 such limits, the Commonwealth Transportation Board shall afford any such aggrieved person the
 1853 opportunity of being heard at its next regular meeting.

1854 The local authorities of counties, cities, and towns, where the highways are under their jurisdiction,
 1855 may adopt regulations or pass ordinances decreasing the weight limits prescribed in this title for a total
 1856 period of no more than 90 days in any calendar year, when an engineering study discloses that operation
 1857 over such highways or streets by reason of deterioration, rain, snow, or other climatic conditions will
 1858 seriously damage such highways unless such weights are reduced.

1859 In all instances where the limits for weight, size, or speed have been reduced by the Commonwealth
 1860 Transportation Commissioner or the weights have been reduced by local authorities pursuant to this
 1861 section, signs stating the weight, height, width, length, or speed permitted on such highway shall be
 1862 erected at each end of the section of highway affected and no such reduced limits shall be effective until
 1863 such signs have been posted.

1864 It shall be unlawful to operate a vehicle or combination of vehicles on any public highway or section
 1865 thereof when the weight, size, or speed thereof exceeds the maximum posted by authority of the
 1866 Commonwealth Transportation Commissioner or local authorities pursuant to this section.

1867 Any violation of any provision of this section shall constitute a Class 2 misdemeanor. Furthermore,
 1868 the vehicle or combination of vehicles involved in such violation may be held upon an order of the
 1869 court until all fines and costs have been satisfied.

1870 § 46.2-1156. Construction, maintenance and loading must prevent escape of contents; load covers;
 1871 exemptions.

1872 A. No vehicle shall be operated or moved on any highway unless it is so constructed, maintained,
 1873 and loaded as to prevent its contents from dropping, sifting, leaking, or otherwise escaping. No
 1874 provision of this section, however, shall apply to any (i) motor vehicle that is used exclusively for
 1875 agricultural purposes as provided in § 46.2-698 and is not licensed in any other state; (ii) agricultural
 1876 vehicle, tractor, or other vehicle exempted from registration and licensing requirements pursuant to
 1877 Article 6 (§ 46.2-662 et seq.) of Chapter 6 of this title; or (iii) motor vehicle transporting forest
 1878 products, poultry, or livestock.

1879 B. The loads of all trucks, trailers and semitrailers carrying gravel, sand, coal or other nonagricultural
 1880 and nonforestry products on interstate, primary, or *county* secondary highways or roads maintained by
 1881 cities, counties or incorporated towns shall be either (i) secured to the vehicle in which they are being
 1882 transported or (ii) covered. Covers used to prevent the escape of material from commercial vehicles used
 1883 to transport solid waste shall be of such design, installation, and construction as to contain the vehicle's
 1884 cargo within the vehicle, regardless of the vehicle's speed or weather conditions. Public service company
 1885 vehicles, pickup trucks, and emergency snow removal equipment while engaged in snow removal
 1886 operations shall be excluded from the provisions of this subsection.

1887 § 46.2-1222. Regulation of parking on county secondary highway system components.

1888 Notwithstanding any other provision of law, the governing ~~bodies~~ *body* of ~~Fairfax, James City,~~
 1889 ~~Loudoun, Montgomery, Prince George, Prince William, and York Counties~~ *any county* by ordinance
 1890 may (i) restrict or prohibit parking on any part of the ~~state~~ *county* secondary ~~highway~~ system of
 1891 ~~highways~~ within ~~their~~ *its* respective boundaries, (ii) provide for the classification of vehicles for the
 1892 purpose of these restrictions and prohibitions, and (iii) provide that the violation of the ordinance shall
 1893 constitute a traffic infraction and prescribe penalties therefor.

1894 All signs and other markings designating the areas where parking is prohibited or restricted shall be
 1895 installed by the county at its expense ~~under permit from the Virginia Department of Transportation.~~

1896 In any prosecution charging a violation of the ordinance, proof that the vehicle described in the
 1897 complaint, summons, or warrant was parked in violation of such ordinance, together with proof that the
 1898 defendant was at the time the registered owner of the vehicle, as required by Chapter 6 of this title,
 1899 shall give rise to a prima facie presumption that the registered owner of the vehicle was the person who
 1900 committed the violation.

1901 Any ordinance adopted pursuant to this section shall require (i) that uncontested payments of
 1902 penalties for violations of the ordinance shall be collected and accounted for by a county officer or

1903 employee, (ii) that the officer or employee shall report on a proper form to the appropriate district court
1904 any person's contesting of any citation for violation of the ordinance, and (iii) that the officer or
1905 employee shall cause warrants to be issued for delinquent parking citations.

1906 § 46.2-1223. Authority of Commissioner to regulate parking on State Highway System.

1907 Except as otherwise provided in this article, the Commonwealth Transportation Commissioner may,
1908 by regulation, regulate parking on any part of the primary and secondary systems *system* of state
1909 highways.

1910 § 46.2-1227. Enforcement of state regulations governing parking on primary and secondary highways.

1911 Any regulation of the Commissioner under the provisions of § 46.2-1223 relating to parking on any
1912 primary or secondary highway shall provide:

1913 1. That uncontested citations issued under the regulation shall be paid to the administrative official or
1914 officials appointed under the provisions of this section in the locality in which the part of the highway
1915 lies, or in the locality where there is no appointed administrative official the citations shall be paid to
1916 the local treasurer, who shall promptly pay them into the general fund of the state treasury; and

1917 2. That contested or delinquent citations shall be certified or complaint, summons, or warrant shall be
1918 issued as provided in § 46.2-1225 to the general district court in whose jurisdiction the part of the
1919 highway lies. Any sums collected by such court, minus court costs, shall be promptly paid by the clerk
1920 into the general fund of the state treasury.

1921 § 53.1-56. Construction and maintenance of highways; acquisition of quarries, etc.; use of materials
1922 for county roads.

1923 Persons sentenced to the Department shall, so far as practicable, be employed in the construction and
1924 maintenance of the State Highway System and secondary system of state highways, and to this end may
1925 be used in rock quarries, gravel pits and other plants in the preparation of materials for construction and
1926 maintenance of roads.

1927 The Commonwealth Transportation Board may acquire out of the proceeds of the money, now or
1928 hereafter available for construction and maintenance of the State Highway System and secondary system,
1929 such quarries, gravel pits or plants as may in its opinion be necessary for such work. The Board shall on
1930 the request of any county road authorities allow such county road authorities to take from such quarries
1931 or gravel pits or shall sell to such county road authorities at cost of production such materials as may be
1932 required to be used for the construction and maintenance of county roads. This arrangement shall in no
1933 way interfere with the furnishing of materials by the Board for the maintenance or construction of the
1934 State Highway System and secondary system.

1935 The Commonwealth Transportation Board shall make requisition from time to time upon the Director
1936 for the number of prisoners it deems necessary for the work on the State Highway System or secondary
1937 system or for the preparation of road material for road construction and maintenance. The number of
1938 prisoners so requisitioned shall be furnished subject to availability as determined by the Director of the
1939 Department of Corrections.

1940 Fifteen days prior to a prisoner's participation in the program, the Director shall give the chief of
1941 police, sheriff or local chief law-enforcement official of the locality in which the prisoner will work,
1942 notice of the prisoner's participation. Such notice shall include the name, address and criminal history of
1943 the prisoner, in addition to other information the chief of police or such officer may request. The
1944 transmission of information shall be confidential and not subject to the Virginia Freedom of Information
1945 Act (§ 2.2-3700 et seq.).

1946 § 53.1-57. Payments by Commonwealth Transportation Board to Director for labor.

1947 The Commonwealth Transportation Board shall pay to the Director monthly for the hours prisoners
1948 are employed on the state highway primary system and secondary system and work incidental thereto,
1949 an amount agreed upon by the Department of Corrections and the Department of Transportation.
1950 Monthly payments by the Board to the Director shall be made not later than the fifteenth day of the
1951 succeeding month after the work or labor has been performed for the Board.

1952 § 56-15. Permits to place poles, wires, etc., in roads and streets in certain counties; charge therefor.

1953 The board of supervisors or other governing body of any county adjoining a city having a population
1954 of 175,000 inhabitants or more according to the last preceding United States census, or of any county
1955 which has adopted the county executive form of county government, may adopt an ordinance requiring
1956 any person, firm or corporation to obtain a permit from the county engineer or such other officer as may
1957 be designated in such ordinance before placing any pole or subsurface structures under, along or in any
1958 county road or street in such county which is not included within the *state* primary or secondary
1959 highway system of state highways, or any lines or wires that cross any such road or street, whether or
1960 not such road or street be actually opened, and may provide in such ordinance reasonable charges for
1961 the issuance of such a permit and penalties for violations of the terms of such ordinance to be imposed
1962 by the court, judge or justice trying the case.

1963 In the event the county engineer or such other officer as may be designated fails or refuses to issue
1964 any such permit requested within thirty days after application therefor, or attaches to such permit

1965 conditions to which such person, firm or corporation is unwilling to consent, then such person, firm or
1966 corporation may proceed to make such crossing pursuant and subject to the provisions of §§ 56-23 to
1967 56-32, as if the application had been made to the board of supervisors or other governing body of the
1968 county.

1969 § 56-258. Who to permit laying of pipelines in roads.

1970 The Commonwealth Transportation Board or the ~~board of supervisors or other~~ local governing body
1971 ~~in~~ of any county ~~that has withdrawn its county roads from the secondary system of state highways is~~
1972 ~~authorized to~~ may enter into contract with water companies or other corporations or persons to lay water
1973 pipelines along the rights-of-way of public roadways and turnpikes. Such water pipelines shall be laid in
1974 such manner as not to obstruct passage thereon when completed, and in any such contract the
1975 Commonwealth Transportation Board or ~~any such board of supervisors or other~~ the local governing
1976 body, as the case may be, shall provide that the parties so laying such pipelines shall, at all times,
1977 exercise reasonable care not to obstruct such roadways while laying, repairing or replacing such pipe.

1978 § 56-355.1. "State Highway System" defined.

1979 Notwithstanding the provisions of any other sections of this Code, the words "State Highway
1980 System" as used in this article shall be construed to be applicable to ~~both~~ the primary and secondary
1981 systems system of state highways.

1982 § 56-458. Right to erect lines parallel to railroads; occupation of roads, streets, etc.; location of same.

1983 A. Every telegraph company and every telephone company incorporated by this or any other state, or
1984 by the United States, may construct, maintain and operate its line along and parallel to any of the
1985 railroads of the Commonwealth, and shall have authority to occupy and use the public parks, roads,
1986 works, turnpikes, streets, avenues and alleys in any of the counties, with the consent of the board of
1987 supervisors or other governing authority thereof, or in any incorporated city or town, with the consent of
1988 the council thereof, and the waterways within this Commonwealth, for the erection of poles and wires,
1989 or cables, or the laying of underground conduits, portions of which they may lease, rent, or hire to other
1990 like companies; provided, however, that if the road or street be in the State Highway System ~~or~~ the
1991 secondary system of state highways, the consent of the board of supervisors or other governing authority
1992 of any county shall not be necessary, but a permit for such occupation and use shall first be obtained
1993 from the Commonwealth Transportation Board.

1994 B. No locality or the Commonwealth Transportation Board shall impose any fees on a certificated
1995 provider of telecommunications service for the use of public rights-of-way except in the manner
1996 prescribed in § 56-468.1; provided, however, the provisions of § 56-468.1 shall not apply to providers of
1997 commercial mobile radio services.

1998 C. No locality or the Commonwealth Transportation Board shall impose on certificated providers of
1999 telecommunications service, whether by franchise, ordinance or other means, any restrictions or
2000 requirements concerning the use of the public rights-of-way (including but not limited to the permitting
2001 process; notice, time and location of excavations and repair work; enforcement of the statewide building
2002 code; and inspections), which are (i) unfair or unreasonable or (ii) any greater than those imposed on the
2003 following users of the public rights-of-way: all providers of telecommunications services and nonpublic
2004 providers of cable television, electric, natural gas, water and sanitary sewer services. For purposes of this
2005 subsection, "restrictions or requirements concerning the use of the public rights-of-way" shall not include
2006 any existing franchise fee or the Public Rights-of-Way Use Fee.

2007 D. Notwithstanding any other provision of law, any permit or other permission required by a locality
2008 pursuant to a franchise, ordinance, or other permission to use the public rights-of-way or by the
2009 Commonwealth Transportation Board of a certificated provider of telecommunications services to use the
2010 public rights-of-way shall be granted or denied within forty-five days from submission and, if denied,
2011 accompanied by a written explanation of the reasons the permit was denied and the actions required to
2012 cure the denial.

2013 E. (Effective until January 1, 2007 - See Editor's notes) No locality receiving directly or indirectly a
2014 Public Rights-of-Way Use Fee or the Commonwealth Transportation Board shall require a certificated
2015 provider of telecommunications services to provide in-kind services or physical assets as a condition of
2016 consent to use public rights-of-way or easements, or in lieu of the Public Rights-of-Way Use Fee. This
2017 shall not limit the ability of localities, their authorities or commissions which provide utility services, or
2018 the Commonwealth Transportation Board to enter into voluntary pole attachment, conduit occupancy or
2019 conduit construction agreements with certificated providers of telecommunications service. Any locality,
2020 other than a city or town electing to continue to enforce an existing franchise, ordinance or other form
2021 of consent under subsection I of § 56-468.1, or the Commonwealth Transportation Board may continue
2022 to use pole attachments and conduits utilized as of December 31, 1997. Any pole attachment or conduit
2023 occupancy fees charged by certificated providers of telecommunications services for this use shall be
2024 waived for facilities in place as of December 31, 1997, and shall be waived for future extensions in
2025 cities with populations between 60,000 and 70,000, so long as the locality or the Commonwealth

2026 Transportation Board continues to use these facilities on such poles or in such conduits solely for their
2027 internal communications needs. The fee waiver is for the occupancy fees only, does not cover any
2028 relocation, rearrangement or other make-ready costs, and does not apply to any county, city or town that
2029 has obtained a certificate pursuant to § 56-265.4:4.

2030 E. (Effective January 1, 2007 - See Editor's notes) No locality receiving directly or indirectly a
2031 Public Rights-of-Way Use Fee or the Commonwealth Transportation Board shall require a certificated
2032 provider of telecommunications services to provide in-kind services or physical assets as a condition of
2033 consent to use public rights-of-way or easements, or in lieu of the Public Rights-of-Way Use Fee. This
2034 shall not limit the ability of localities, their authorities or commissions which provide utility services, or
2035 the Commonwealth Transportation Board to enter into voluntary pole attachment, conduit occupancy or
2036 conduit construction agreements with certificated providers of telecommunications service. Any locality,
2037 other than a city or town electing to continue to enforce an existing franchise, ordinance or other form
2038 of consent under subsection J of § 56-468.1, or the Commonwealth Transportation Board may continue
2039 to use pole attachments and conduits utilized as of December 31, 1997. Any pole attachment or conduit
2040 occupancy fees charged by certificated providers of telecommunications services for this use shall be
2041 waived for facilities in place as of December 31, 1997, and shall be waived for future extensions in
2042 cities with populations between 60,000 and 70,000, so long as the locality or the Commonwealth
2043 Transportation Board continues to use these facilities on such poles or in such conduits solely for their
2044 internal communications needs. The fee waiver is for the occupancy fees only, does not cover any
2045 relocation, rearrangement or other make-ready costs, and does not apply to any county, city or town that
2046 has obtained a certificate pursuant to § 56-265.4:4.

2047 § 56-458. Right to erect lines parallel to railroads; occupation of roads, streets, etc.; location of same.

2048 A. Every telegraph company and every telephone company incorporated by this or any other state, or
2049 by the United States, may construct, maintain and operate its line along and parallel to any of the
2050 railroads of the Commonwealth, and shall have authority to occupy and use the public parks, roads,
2051 works, turnpikes, streets, avenues and alleys in any of the counties, with the consent of the board of
2052 supervisors or other governing authority thereof, or in any incorporated city or town, with the consent of
2053 the council thereof, and the waterways within this Commonwealth, for the erection of poles and wires,
2054 or cables, or the laying of underground conduits, portions of which they may lease, rent, or hire to other
2055 like companies; provided, however, that if the road or street be in the State Highway System or the
2056 secondary system of state highways, the consent of the board of supervisors or other governing authority
2057 of any county shall not be necessary, but a permit for such occupation and use shall first be obtained
2058 from the Commonwealth Transportation Board.

2059 B. No locality or the Commonwealth Transportation Board shall impose any fees on a certificated
2060 provider of telecommunications service for the use of public rights-of-way except in the manner
2061 prescribed in § 56-468.1; provided, however, the provisions of § 56-468.1 shall not apply to providers of
2062 commercial mobile radio services.

2063 C. No locality or the Commonwealth Transportation Board shall impose on certificated providers of
2064 telecommunications service, whether by franchise, ordinance or other means, any restrictions or
2065 requirements concerning the use of the public rights-of-way (including but not limited to the permitting
2066 process; notice, time and location of excavations and repair work; enforcement of the statewide building
2067 code; and inspections), which are (i) unfair or unreasonable or (ii) any greater than those imposed on the
2068 following users of the public rights-of-way: all providers of telecommunications services and nonpublic
2069 providers of cable television, electric, natural gas, water and sanitary sewer services. For purposes of this
2070 subsection, "restrictions or requirements concerning the use of the public rights-of-way" shall not include
2071 any existing franchise fee or the Public Rights-of-Way Use Fee.

2072 D. Notwithstanding any other provision of law, any permit or other permission required by a locality
2073 pursuant to a franchise, ordinance, or other permission to use the public rights-of-way or by the
2074 Commonwealth Transportation Board of a certificated provider of telecommunications services to use the
2075 public rights-of-way shall be granted or denied within forty-five days from submission and, if denied,
2076 accompanied by a written explanation of the reasons the permit was denied and the actions required to
2077 cure the denial.

2078 E. (Effective until January 1, 2007 - See Editor's notes) No locality receiving directly or indirectly a
2079 Public Rights-of-Way Use Fee or the Commonwealth Transportation Board shall require a certificated
2080 provider of telecommunications services to provide in-kind services or physical assets as a condition of
2081 consent to use public rights-of-way or easements, or in lieu of the Public Rights-of-Way Use Fee. This
2082 shall not limit the ability of localities, their authorities or commissions which provide utility services, or
2083 the Commonwealth Transportation Board to enter into voluntary pole attachment, conduit occupancy or
2084 conduit construction agreements with certificated providers of telecommunications service. Any locality,
2085 other than a city or town electing to continue to enforce an existing franchise, ordinance or other form
2086 of consent under subsection I of § 56-468.1, or the Commonwealth Transportation Board may continue
2087 to use pole attachments and conduits utilized as of December 31, 1997. Any pole attachment or conduit

2088 occupancy fees charged by certificated providers of telecommunications services for this use shall be
 2089 waived for facilities in place as of December 31, 1997, and shall be waived for future extensions in
 2090 cities with populations between 60,000 and 70,000, so long as the locality or the Commonwealth
 2091 Transportation Board continues to use these facilities on such poles or in such conduits solely for their
 2092 internal communications needs. The fee waiver is for the occupancy fees only, does not cover any
 2093 relocation, rearrangement or other make-ready costs, and does not apply to any county, city or town that
 2094 has obtained a certificate pursuant to § 56-265.4:4.

2095 E. (Effective January 1, 2007 - See Editor's notes) No locality receiving directly or indirectly a
 2096 Public Rights-of-Way Use Fee or the Commonwealth Transportation Board shall require a certificated
 2097 provider of telecommunications services to provide in-kind services or physical assets as a condition of
 2098 consent to use public rights-of-way or easements, or in lieu of the Public Rights-of-Way Use Fee. This
 2099 shall not limit the ability of localities, their authorities or commissions which provide utility services, or
 2100 the Commonwealth Transportation Board to enter into voluntary pole attachment, conduit occupancy or
 2101 conduit construction agreements with certificated providers of telecommunications service. Any locality,
 2102 other than a city or town electing to continue to enforce an existing franchise, ordinance or other form
 2103 of consent under subsection J of § 56-468.1, or the Commonwealth Transportation Board may continue
 2104 to use pole attachments and conduits utilized as of December 31, 1997. Any pole attachment or conduit
 2105 occupancy fees charged by certificated providers of telecommunications services for this use shall be
 2106 waived for facilities in place as of December 31, 1997, and shall be waived for future extensions in
 2107 cities with populations between 60,000 and 70,000, so long as the locality or the Commonwealth
 2108 Transportation Board continues to use these facilities on such poles or in such conduits solely for their
 2109 internal communications needs. The fee waiver is for the occupancy fees only, does not cover any
 2110 relocation, rearrangement or other make-ready costs, and does not apply to any county, city or town that
 2111 has obtained a certificate pursuant to § 56-265.4:4.

2112 § 56-468.1. (Effective until January 1, 2007) Public Rights-of-Way Use Fee.

2113 A. As used in this article:

2114 "Access lines" are defined to include residence and business telephone lines and other switched
 2115 common lines connecting the customer premises to the end office switch. Access lines do not include
 2116 local, state, and federal government lines; access lines used to provide service to users as part of the
 2117 Virginia Universal Service Plan; interstate and intrastate dedicated WATS lines; special access lines;
 2118 off-premises extensions; official lines used by providers of telecommunications service for
 2119 administrative, testing, intercept, and verification purposes; and commercial mobile radio service lines.

2120 "Certificated provider of telecommunications service" means a public service corporation or locality
 2121 holding a certificate issued by the State Corporation Commission to provide local exchange or
 2122 interexchange telephone service.

2123 "Locality" has the same meaning as contained in § 15.2-102.

2124 "New installation of telecommunications facilities" or "new installation" includes the construction of
 2125 new pole lines and new conduit systems, and the burying of new cables in existing public rights-of-way.
 2126 New installation does not include adding new cables to existing pole lines and conduit systems.

2127 "Public highway" means, for purposes of computing the Public Rights-of-Way Use Fee, the
 2128 centerline mileage of highways and streets which are part of the State Highway System as defined in
 2129 § 33.1-25, ~~the any county secondary highway system of highways as defined in § 33.1-67 component, and~~
 2130 ~~the highways of those cities and certain towns defined in § 33.1-41.1 and the highways and streets~~
 2131 ~~maintained and operated by counties which have withdrawn or elect to withdraw from the secondary~~
 2132 ~~system of state highways under the provisions of § 11 of Chapter 415 of the Acts of Assembly of 1932~~
 2133 ~~and which have not elected to return.~~

2134 B. Notwithstanding any other provisions of law, there is hereby established a Public Rights-of-Way
 2135 Use Fee to replace any and all fees of general application (except for zoning, subdivision, site plan and
 2136 comprehensive plan fees of general application) otherwise chargeable to a certificated provider of
 2137 telecommunications service by the Commonwealth Transportation Board or a locality in connection with
 2138 a permit for such occupation and use granted in accordance with § 56-458 or § 56-462. Cities and towns
 2139 whose public streets and roads are not maintained by the Virginia Department of Transportation, and
 2140 any county that has withdrawn or elects to withdraw from the secondary system of state highways under
 2141 the provisions of § 11 of Chapter 415 of the Acts of Assembly of 1932, may impose the Public
 2142 Rights-of-Way Use Fee only by local ordinance. Localities, their authorities or commissions, and the
 2143 Commonwealth Transportation Board may allow certificated providers of telecommunications services to
 2144 use their electric poles or electric conduits in exchange for payment of a fee.

2145 C. The amount of the Public Rights-of-Way Use Fee shall be calculated annually by the Department
 2146 of Transportation (VDOT), based on the calculations described in subsection D of this section. In no
 2147 year shall the amount of the fee be less than fifty cents per access line per month.

2148 D. The annual rate of the Public Rights-of-Way Use Fee shall be calculated by multiplying the

2149 number of public highway miles in the Commonwealth by a highway mileage rate (as defined in
 2150 subsection E of this section), and by adding the number of feet of new installations in the
 2151 Commonwealth (multiplied by one dollar per foot), and dividing this sum by the total number of access
 2152 lines in the Commonwealth. The monthly rate shall be this annual rate divided by twelve.

2153 E. The annual multiplier per mile is \$250 from July 1, 1998, through June 30, 1999; \$300 per mile
 2154 for the year July 1, 1999, through June 30, 2000; \$350 per mile for the year July 1, 2000, through June
 2155 30, 2001; and \$425 per mile beginning July 1, 2001 and thereafter.

2156 F. The data used for the calculation in subsection D shall be based on the following information and
 2157 schedule: (i) all certificated providers of telecommunications services shall remit to VDOT by December
 2158 1 of each year data indicating the number of feet of new installations made during the one-year period
 2159 ending September 30 of that year, which shall be auditable by affected localities, and the number of
 2160 access lines as of September 30 of that year, which shall be auditable by affected localities; and (ii) the
 2161 public highway mileage from the most recently published VDOT report. By the following January 15,
 2162 VDOT shall calculate the Public Rights-of-Way Use Fee to be used in the fiscal year beginning the next
 2163 ensuing July 1 and report it to all affected localities and certificated providers of local exchange
 2164 telephone services.

2165 G. A certificated provider of local exchange telephone service shall collect the Public Rights-of-Way
 2166 Use Fee on a per access line basis by adding the fee to each ultimate end user's monthly bill for local
 2167 exchange telephone service. The Public Rights-of-Way Use Fee shall, when billed, be stated as a distinct
 2168 item separate and apart from the monthly charge for local exchange telephone service. Until the ultimate
 2169 end user pays the Public Rights-of-Way Use Fee to the local exchange service provider, the Public
 2170 Rights-of-Way Use Fee shall constitute a debt of the consumer to the locality or VDOT. If any ultimate
 2171 end user refuses to pay the Public Rights-of-Way Use Fee, the local exchange service provider shall
 2172 notify the locality or VDOT, as appropriate. After the consumer pays the Public Rights-of-Way Use Fee
 2173 to the local exchange service provider, such fee collected shall be deemed to be held in trust by the
 2174 local exchange service provider until remitted to the locality or VDOT.

2175 H. Within two months after the end of each calendar quarter, each certificated provider of local
 2176 exchange telephone service shall remit the amount of Public Rights-of-Way Use Fees it has billed to
 2177 ultimate end users during such preceding quarter, as follows:

2178 1. The certificated provider of local exchange telephone service shall remit directly to the applicable
 2179 locality all Public Rights-of-Way Use Fees billed in (i) cities, (ii) towns whose public streets and roads
 2180 are not maintained by VDOT, and (iii) any county that has withdrawn or elects to withdraw from the
 2181 secondary system of state highways under the provisions of § 11 of Chapter 415 of the Acts of
 2182 Assembly of 1932 and that has elected not to return, provided, however, that such counties shall use a
 2183 minimum of ten percent of the Public Rights-of-Way Use Fees they receive for transportation
 2184 construction or maintenance purposes. Any city currently subject to § 15.2-3530 shall use a minimum of
 2185 ninety percent of the Public Rights-of-Way Use Fees it receives for transportation construction or
 2186 maintenance purposes.

2187 2. The Public Rights-of-Way Use Fees billed in all other counties shall be remitted by each
 2188 certificated provider of local exchange telephone service to VDOT. VDOT shall allocate the total
 2189 amount received from certificated providers to the construction improvement program of the secondary
 2190 system of state highways. Within such allocation to the secondary system, VDOT shall apportion the
 2191 amounts so received among the several counties, other than those described in clause (iii) of subdivision
 2192 1, on the basis of population, with each county being credited a share of the total equal to the
 2193 proportion that its population bears to the total population of all such counties. For purposes of this
 2194 section the term "population" shall mean either population according to the latest United States census or
 2195 the latest population estimate of the Weldon Cooper Center for Public Service of the University of
 2196 Virginia, whichever is more recent. Such allocation and apportionment of Public Rights-of-Way Use
 2197 Fees shall be in addition to, and not in lieu of, any other allocation of funds to such secondary system
 2198 and apportionment to counties thereof provided by law.

2199 I. Any locality with a franchise agreement, ordinance implementing a franchise agreement or other
 2200 form of consent allowing the use of the public rights-of-way, existing prior to July 1, 1998, or any city
 2201 or town with an ordinance or code section imposing a franchise fee or charge in effect as of February 1,
 2202 1997, may elect to continue enforcing such existing franchise, ordinance or code section or other form
 2203 of consent in lieu of receiving the Public Rights-of-Way Use Fee; provided, however, that such city or
 2204 town does not (i) discriminate among telecommunications service providers and (ii) adopt any additional
 2205 rights-of-way management practices that do not comply with §§ 56-458 C and 56-462 C. The Public
 2206 Rights-of-Way Use Fee shall not be imposed in any such locality.

2207 Any locality electing to adopt the Public Rights-of-Way Use Fee by ordinance shall notify all
 2208 affected certificated providers of local exchange telephone service no later than March 15 preceding the
 2209 fiscal year. Such notice shall be in writing and sent by certified mail from such locality to the registered
 2210 agent of the affected certificated provider of local exchange telephone service. For localities adopting the

2211 Public Rights-of-Way Use Fee by ordinance in 1998, collection of the fee shall begin on the first day of
 2212 the month occurring ninety days after receipt of notice as required by this subsection.

2213 § 56-468.1. (Effective January 1, 2007 /- see Editor's notes for expiration) Public Rights-of-Way Use
 2214 Fee.

2215 A. As used in this article:

2216 "Access lines" are defined to include residence and business telephone lines and other switched
 2217 (packet or circuit) lines connecting the customer premises to the public switched telephone network for
 2218 the transmission of outgoing voice-grade telecommunications services. Centrex, PBX, or other
 2219 multistation telecommunications services will incur a Public Rights-of-Way Use Fee on every line or
 2220 trunk (Network Access Registrar or PBX trunk) that allows simultaneous unrestricted outward dialing to
 2221 the public switched network. ISDN Primary Rate Interface services will be charged five Public
 2222 Rights-of-Way Use Fees for every ISDN Primary Rate Interface network facility established by the
 2223 customer. Other channelized services in which each voice-grade channel is controlled by the
 2224 telecommunications service provider shall be charged one fee for each line that allows simultaneous
 2225 unrestricted outward dialing to the public switched telephone network. Access lines do not include local,
 2226 state, and federal government lines; access lines used to provide service to users as part of the Virginia
 2227 Universal Service Plan; interstate and intrastate dedicated WATS lines; special access lines; off-premises
 2228 extensions; official lines internally provided and used by providers of telecommunications service for
 2229 administrative, testing, intercept, and verification purposes; and commercial mobile radio service.

2230 "Cable operator" and "cable system" have the same meanings as contained in subsection A of
 2231 § 15.2-2108.1:1.

2232 "Centrex" means a business telephone service offered by a local exchange company from a local
 2233 central office; a normal single line telephone service with added custom calling features including but
 2234 not limited to intercom, call forwarding, and call transfer.

2235 "ISDN Primary Rate Interface" means digital communications service containing 24 bearer channels,
 2236 each of which is a full 64,000 bits-per-second.

2237 "Locality" has the same meaning as contained in § 15.2-102.

2238 "Network Access Register" means a central office register associated with Centrex service that is
 2239 required in order to complete a call involving access to the public switched telephone network outside
 2240 the confines of that Centrex company. Network Access Register may be incoming, outgoing, or
 2241 two-way.

2242 "New installation of telecommunications facilities" or "new installation" includes the construction of
 2243 new pole lines and new conduit systems, and the burying of new cables in existing public rights-of-way.
 2244 New installation does not include adding new cables to existing pole lines and conduit systems.

2245 "PBX" means public branch exchange and is telephone switching equipment owned by the customer
 2246 and located on the customer's premises.

2247 "PBX trunk" means a connection of the customer's PBX switch to the central office.

2248 "Provider of local telecommunications service" means a public service corporation or locality holding
 2249 a certificate issued by the State Corporation Commission to provide local exchange telephone service
 2250 and any other person who provides local telephone services to the public for a fee, other than a CMRS
 2251 provider as that term is defined in § 56-484.12.

2252 "Provider of telecommunications service" means a public service corporation or locality holding a
 2253 certificate issued by the State Corporation Commission to provide local exchange or interexchange
 2254 telephone service to the public for a fee and any other person who provides local or long distance
 2255 telephone services to the public for a fee, other than a CMRS provider as that term is defined in
 2256 § 56-484.12.

2257 "Public highway" means, for purposes of computing the Public Rights-of-Way Use Fee, the
 2258 centerline mileage of highways and streets which are part of the State Highway System as defined in
 2259 § 33.1-25, ~~the any county secondary highway system of highways as defined in § 33.1-67 component, and~~
 2260 ~~the highways of those cities and certain towns defined in § 33.1-41.1 and the highways and streets~~
 2261 ~~maintained and operated by counties which have withdrawn or elect to withdraw from the secondary~~
 2262 ~~system of state highways under the provisions of § 11 of Chapter 415 of the Acts of Assembly of 1932~~
 2263 ~~and which have not elected to return.~~

2264 "Subscriber" means a person who receives video programming, as defined in 47 U.S.C. § 522(20),
 2265 distributed by a cable operator, as defined in subsection A of § 15.2-2108.1:1, and does not further
 2266 distribute it.

2267 B. 1. Notwithstanding any other provisions of law, there is hereby established a Public
 2268 Rights-of-Way Use Fee to replace any and all fees of general application (except for zoning,
 2269 subdivision, site plan and comprehensive plan fees of general application) otherwise chargeable to a
 2270 provider of telecommunications service by the Commonwealth Transportation Board or a locality in
 2271 connection with a permit for such occupation and use granted in accordance with § 56-458 or § 56-462.

2272 Cities and towns whose public streets and roads are not maintained by the Virginia Department of
 2273 Transportation, and any county that has ~~withdrawn or elects to withdraw from the secondary system of~~
 2274 ~~state highways under the provisions of § 11 of Chapter 415 of the Acts of Assembly of 1932~~, may
 2275 impose the Public Rights-of-Way Use Fee on the ultimate end-users of local telecommunications service
 2276 only by local ordinance. Localities, their authorities or commissions, and the Commonwealth
 2277 Transportation Board may allow providers of telecommunications services and cable operators to use
 2278 their electric poles or electric conduits in exchange for payment of a fee.

2279 2. The Public Rights-of-Way Use Fee established by this section is hereby imposed on all cable
 2280 operators that use the public rights-of-way.

2281 C. The amount of the Public Rights-of-Way Use Fee shall be calculated annually by the Department
 2282 of Transportation (VDOT), based on the calculations described in subsection D of this section. In no
 2283 year shall the amount of the fee be less than \$0.50 per access line per month.

2284 D. The annual rate of the Public Rights-of-Way Use Fee shall be calculated by multiplying the
 2285 number of public highway miles in the Commonwealth by a highway mileage rate (as defined in
 2286 subsection E of this section), and by adding the number of feet of new installations in the
 2287 Commonwealth (multiplied by \$1 per foot), and dividing this sum by the total number of access lines in
 2288 the Commonwealth. The monthly rate shall be this annual rate divided by 12.

2289 E. The annual multiplier per mile is \$425 per mile beginning July 1, 2001, and thereafter.

2290 F. The data used for the calculation in subsection D shall be based on the following information and
 2291 schedule: (i) all providers of telecommunications services shall remit to VDOT by December 1 of each
 2292 year data indicating the number of feet of new installations made during the one-year period ending
 2293 September 30 of that year, which shall be auditable by affected localities, and the number of access
 2294 lines as of September 30 of that year, which shall be auditable by affected localities; and (ii) the public
 2295 highway mileage from the most recently published VDOT report. By the following January 15, VDOT
 2296 shall calculate the Public Rights-of-Way Use Fee to be used in the fiscal year beginning the next
 2297 ensuing July 1 and report it to all affected localities and providers of local telecommunications services.

2298 G. A provider of local telecommunications service shall collect the Public Rights-of-Way Use Fee on
 2299 a per access line basis and the cable operator shall collect the Public Rights-of-Way Use Fee on a per
 2300 subscriber basis by adding the fee to each ultimate end user's monthly bill for local telecommunications
 2301 service or cable service. A company providing both local telecommunications service and cable service
 2302 to the same ultimate end user may collect only one Public Rights-of-Way Use Fee from that ultimate
 2303 end user based on (i) the local telecommunications service if the locality in which the ultimate end user
 2304 resides has imposed a Public Rights-of-Way Use Fee on local telecommunications service or (ii) cable
 2305 service if the locality in which the subscriber resides has not imposed a Public Rights-of-Way Use Fee
 2306 on local telecommunications service. The Public Rights-of-Way Use Fee shall, when billed, be stated as
 2307 a distinct item separate and apart from the monthly charge for local telecommunications service and
 2308 cable service. Until the ultimate end user pays the Public Rights-of-Way Use Fee to the local
 2309 telecommunications service provider or cable operator, the Public Rights-of-Way Use Fee shall constitute
 2310 a debt of the consumer to the locality, VDOT, or the Department of Taxation, as may be applicable. If
 2311 any ultimate end user or subscriber refuses to pay the Public Rights-of-Way Use Fee, the local
 2312 telecommunications service provider or cable operator shall notify the locality, VDOT, or the
 2313 Department of Taxation, as appropriate. All fees collected in accordance with the provisions of this
 2314 section shall be deemed to be held in trust by the local telecommunications service provider and the
 2315 cable operator until remitted to the locality, VDOT, or the Department of Taxation, as applicable.

2316 H. Within two months after the end of each calendar quarter, each provider of local
 2317 telecommunications service shall remit the amount of Public Rights-of-Way Use Fees it has billed to
 2318 ultimate end users during such preceding quarter, as follows:

2319 1. The provider of local telecommunications service shall remit directly to the applicable locality all
 2320 Public Rights-of-Way Use Fees billed in (i) cities; (ii) towns whose public streets and roads are not
 2321 maintained by VDOT; and (iii) any county that has ~~withdrawn or elects to withdraw from the secondary~~
 2322 ~~system of state highways under the provisions of § 11 of Chapter 415 of the Acts of Assembly of 1932~~
 2323 ~~and that has elected not to return~~, provided, however, that such counties shall use a minimum of 10% of
 2324 the Public Rights-of-Way Use Fees they receive for transportation construction or maintenance purposes.
 2325 Any city currently subject to § 15.2-3530 shall use a minimum of 90% of the Public Rights-of-Way Use
 2326 Fees it receives for transportation construction or maintenance purposes.

2327 2. ~~The Public Rights-of-Way Use Fees billed in all other counties shall be remitted by each provider~~
 2328 ~~of local telecommunications service to VDOT. VDOT shall allocate the total amount received from~~
 2329 ~~providers to the construction improvement program of the secondary system of state highways. Within~~
 2330 ~~such allocation to the secondary system, VDOT shall apportion the amounts so received among the~~
 2331 ~~several counties, other than those described in clause (iii) of subdivision 1, on the basis of population;~~
 2332 ~~with each county being credited a share of the total equal to the proportion that its population bears to~~
 2333 ~~the total population of all such counties. For purposes of this section the term "population" shall mean~~

2334 either population according to the latest United States census or the latest population estimate of the
2335 Weldon Cooper Center for Public Service of the University of Virginia, whichever is more recent. Such
2336 allocation and apportionment of Public Rights-of-Way Use Fees shall be in addition to, and not in lieu
2337 of, any other allocation of funds to such secondary system and apportionment to counties thereof
2338 provided by law.

2339 I. The Public Rights-of-Way Use Fee billed by a cable operator shall be remitted to the Department
2340 of Taxation for deposit into the Communication Sales and Use Tax Trust Fund by the twentieth day of
2341 the month following the billing of the fee.

2342 J. Any locality with a franchise agreement, ordinance implementing a franchise agreement or other
2343 form of consent allowing the use of the public rights-of-way by a provider of local telecommunications
2344 service, existing prior to July 1, 1998, or any city or town with an ordinance or code section imposing a
2345 franchise fee or charge on a provider of local telecommunications service in effect as of February 1,
2346 1997, may elect to continue enforcing such existing franchise, ordinance or code section or other form
2347 of consent in lieu of receiving the Public Rights-of-Way Use Fee; provided, however, that such city or
2348 town does not (i) discriminate among telecommunications service providers and (ii) adopt any additional
2349 rights-of-way management practices that do not comply with §§ 56-458 C and 56-462 C. The Public
2350 Rights-of-Way Use Fee shall not be imposed in any such locality.

2351 Any locality electing to adopt the Public Rights-of-Way Use Fee by ordinance shall notify all
2352 affected providers of local telecommunications service no later than March 15 preceding the fiscal year.
2353 Such notice shall be in writing and sent by certified mail from such locality to the registered agent of
2354 the affected provider or providers of local telecommunications service.

2355 § 56-468.2. Reimbursement for relocation costs.

2356 A. After July 1, 1998, certificated providers of telecommunications services shall receive
2357 reimbursement for eligible relocation costs incurred at the direction of a locality that imposes by
2358 ordinance the Public Rights-of-Way Use Fee or the Department of Transportation for new installations
2359 as defined in § 56-468.1 in any public rights-of-way in accordance with §§ 56-458 and 56-462 on the
2360 basis of age and according to the following schedule. Such reimbursement shall be received from either
2361 (i) the locality that granted the permit or franchise to use such right-of-way or (ii) the Commonwealth
2362 Transportation Board if the road or street is in the State Highway System or the secondary system of
2363 state highways:

2364 1. For the first three years after the completion of the installation, the certificated provider of
2365 telecommunications service shall be reimbursed 100 percent of the eligible cost for the relocation of
2366 facilities installed in the public rights-of-way.

2367 2. For the fourth through sixth year after the completion of the installation, the certificated provider
2368 of telecommunications service shall be reimbursed 50 percent of the eligible cost for the relocation of
2369 facilities installed in the public rights-of-way.

2370 3. Beginning in the seventh year, the certificated provider of telecommunications service shall be
2371 responsible for the cost of relocating facilities installed in the public rights-of-way.

2372 Such reimbursement shall be received from either (i) the locality that granted the permit or franchise
2373 to use such right-of-way or (ii) the Commonwealth Transportation Board if the road or street is in the
2374 State Highway System or the secondary system of state highways.

2375 B. The amount of relocation reimbursement in any fiscal year to be reimbursed under this section
2376 shall not exceed the amount of Public Rights-of-Way Use Fees received by that locality either directly
2377 or through its secondary road fund apportionment in the preceding fiscal year. For facilities relocated in
2378 1998 and 1999 at the direction of the locality or the Commonwealth Transportation Board, this limit on
2379 relocation reimbursement shall be the estimated annualized fees to be collected in that locality in 1998
2380 for 1998 relocations and in 1999 for 1999 relocations. If the relocation reimbursement limit will be
2381 exhausted on a relocation project where two or more certificated providers of telecommunications
2382 service are eligible for relocation reimbursement, then the moneys available under the cap shall be
2383 shared by those eligible providers by prorating the reimbursement based on the reimbursement to which
2384 each provider would be entitled absent the limit.

2385 § 56-540. Application.

2386 The Commission may charge a reasonable application fee to cover the costs of processing, reviewing,
2387 and approving or denying the application. The application for a certificate of authority shall contain the
2388 following material and information:

2389 1. The geographic area to be served by the roadway and a topographic map indicating the route of
2390 the roadway;

2391 2. A list of the property owners through whose property the roadway or highway will pass or whose
2392 property will abut the roadway or highway;

2393 3. The method by which the operator will secure all right-of-way required for the roadway, including
2394 a description of the nature of the interest in the lands to be acquired, which shall provide, at a

2395 minimum, for permanent dedication for transportation purposes, except that in cases in which the
2396 Department would not have authority to condemn land because of the identity of the owner, the interest
2397 to be acquired shall be of the same type and duration as that which the Department would obtain under
2398 the circumstances;

2399 4. The comprehensive plan or plans for all counties, cities, and towns through which the roadway
2400 will pass and an analysis which shows that the roadway conforms to these comprehensive plans. To the
2401 extent that the roadway conforms to such plans, the fact that the operator is not the Commonwealth
2402 shall not affect the construction and operation of the roadway;

2403 5. The operator's plan for financing the proposed construction or enlargement of the roadway,
2404 including proposed tolls to be charged for use of the roadway, projected amounts to be collected from
2405 such tolls and anticipated traffic volume and detailed plans for distribution of funds, including the
2406 priority in which necessary expenditures will be made. The plan for financing may be structured to
2407 include, without limitation, provisions for the issuance of debt, equity, or other securities, lease
2408 financing, the pledge of revenues or other assets or rights of the operator, or any combination thereof;

2409 6. The operator's plan for operation of the proposed roadway or enlargement thereof;

2410 7. A list of all permits and approvals required for construction of the roadway from local, state, or
2411 federal agencies and a schedule for securing such approvals;

2412 8. An overall description of the project, the project design, and all proposed interconnections with the
2413 state highway system, including any interstate highway, or *county secondary highway* system of
2414 ~~highways component~~, or the streets or roads of any county, city, or town not within the state highway
2415 system, accompanied by a copy of the approval of the project, the roadway design and interconnections
2416 from the Board, as well as the county, city, or town for connection with a street or road not under state
2417 control;

2418 9. A list of public utility facilities to be crossed and plans for such crossings or relocations of such
2419 facilities;

2420 10. A certificate of the operator that the roadway will be designed and constructed to meet
2421 Department standards, and substantially in accordance with a proposed timetable which is agreeable to
2422 the Department, and that the operator will provide a design, review, and inspection agreement with the
2423 Department which shall provide that the Department shall authorize construction upon review and
2424 approval of the plans and specifications for the roadway and its interconnection with other roads, and
2425 that it shall inspect periodically the progress of the construction work to ensure its compliance with the
2426 Department standards; and

2427 11. Completion and performance bonds in form and amount satisfactory to the Commission, which
2428 amounts shall be set after consultation with the Department.

2429 § 58.1-320. Imposition of tax.

2430 A. A tax is hereby annually imposed on the Virginia taxable income for each taxable year of every
2431 individual as follows:

2432 Two percent on income not exceeding \$3,000;

2433 Three percent on income in excess of \$3,000, but not in excess of \$5,000;

2434 Five percent on income in excess of \$5,000, but not in excess of \$12,000 for taxable years beginning
2435 before January 1, 1987;

2436 Five percent on income in excess of \$5,000 but not in excess of \$14,000 for taxable years beginning
2437 January 1, 1987, through December 31, 1987;

2438 Five percent on income in excess of \$5,000 but not in excess of \$15,000 for taxable years beginning
2439 January 1, 1988, through December 31, 1988;

2440 Five percent on income in excess of \$5,000 but not in excess of \$16,000 for taxable years beginning
2441 January 1, 1989, through December 31, 1989;

2442 Five percent on income in excess of \$5,000 but not in excess of \$17,000 for taxable years beginning
2443 January 1, 1990;

2444 Five and three-quarters percent on income in excess of \$12,000 for taxable years beginning before
2445 January 1, 1987;

2446 Five and three-quarters percent on income in excess of \$14,000 for taxable years beginning January
2447 1, 1987, through December 31, 1987;

2448 Five and three-quarters percent on income in excess of \$15,000 for taxable years beginning January
2449 1, 1988, through December 31, 1988;

2450 Five and three-quarters percent on income in excess of \$16,000 for taxable years beginning January
2451 1, 1989, through December 31, 1989; and

2452 Five and three-quarters percent on income in excess of \$17,000 for taxable years beginning on and
2453 after January 1, 1990.

2454 B. For taxable years beginning on and after January 1, 2007, an amount equal to 20% of the total
2455 individual income tax revenue collected annually by the Department of Taxation shall be distributed to
2456 each county and city based on each county's and city's share of total Virginia income tax revenue

2457 according to the residence of the taxpayer. Such distributions shall be made no later than September 1
 2458 of the year in which the taxes are collected for the immediately preceding year. Localities shall
 2459 appropriate all amounts distributed pursuant to this section solely for transportation purposes.

2460 § 58.1-2259. Fuel uses eligible for refund.

2461 A. A refund of the tax paid for the purchase of fuel in quantities of five gallons or more at any time
 2462 shall be granted in accordance with the provisions of § 58.1-2261 to any person who establishes to the
 2463 satisfaction of the Commissioner that such person has paid the tax levied pursuant to this chapter upon
 2464 any fuel:

2465 1. Sold and delivered to a governmental entity for its exclusive use;

2466 2. Used by a governmental entity, provided persons operating under contract with a governmental
 2467 entity shall not be eligible for such refund;

2468 3. Sold and delivered to an organization described in subdivision 2 of § 58.1-2226 or subdivision 2
 2469 of § 58.1-2250 for its exclusive use in the operation of an aircraft;

2470 4. Used by an organization described in subdivision 2 of § 58.1-2226 or subdivision 2 of § 58.1-2250
 2471 for its exclusive use in the operation of an aircraft, provided persons operating under contract with such
 2472 an organization shall not be eligible for such refund;

2473 5. Purchased by a licensed exporter and subsequently transported and delivered by such licensed
 2474 exporter to another state for sales or use outside the boundaries of the Commonwealth if the tax
 2475 applicable in the destination state has been paid, provided a refund shall not be granted pursuant to this
 2476 section on any fuel which is transported and delivered outside of the Commonwealth in the fuel supply
 2477 tank of a highway vehicle or an aircraft;

2478 6. Used by any person performing transportation under contract or lease with any transportation
 2479 district for use in a highway vehicle controlled by a transportation district created under the
 2480 Transportation District Act of 1964 (§ 15.2-4500 et seq.) and used in providing transit service by the
 2481 transportation district by contract or lease, provided the refund shall be paid to the person performing
 2482 such transportation;

2483 7. Used by any private, nonprofit agency on aging, designated by the Department for the Aging,
 2484 providing transportation services to citizens in highway vehicles owned, operated or under contract with
 2485 such agency;

2486 8. Used in operating or propelling highway vehicles owned by a nonprofit organization that provides
 2487 specialized transportation to various locations for elderly or disabled individuals to secure essential
 2488 services and to participate in community life according to the individual's interest and abilities;

2489 9. Used in operating or propelling buses owned and operated by a county or the school board thereof
 2490 while being used to transport children to and from public school or from school to and from educational
 2491 or athletic activities;

2492 10. Used by buses owned or solely used by a private, nonprofit, nonreligious school while being
 2493 used to transport children to and from such school or from such school to and from educational or
 2494 athletic activities;

2495 11. Used by any county or city school board or any private, nonprofit, nonreligious school
 2496 contracting with a private carrier to transport children to and from public schools or any private,
 2497 nonprofit, nonreligious school, provided the tax shall be refunded to the private carrier performing such
 2498 transportation;

2499 12. Used in operating or propelling the equipment of volunteer firefighting companies and of
 2500 volunteer rescue squads within the Commonwealth used actually and necessarily for firefighting and
 2501 rescue purposes;

2502 13. Used in operating or propelling motor equipment belonging to counties, cities and towns, if
 2503 actually used in public activities;

2504 14. Used for a purpose other than in operating or propelling highway vehicles, watercraft or aircraft;

2505 15. Used off-highway in self-propelled equipment manufactured for a specific off-road purpose,
 2506 which is used on a job site and the movement of which on any highway is incidental to the purpose for
 2507 which it was designed and manufactured;

2508 16. Proven to be lost by accident, including the accidental mixing of (i) dyed diesel fuel with
 2509 tax-paid motor fuel, (ii) gasoline with diesel fuel, or (iii) undyed diesel fuel with dyed kerosene, but
 2510 excluding fuel lost through personal negligence or theft;

2511 17. Used in operating or propelling vehicles used solely for racing other vehicles on a racetrack;

2512 18. Used in operating or propelling unlicensed highway vehicles and other unlicensed equipment
 2513 used exclusively for agricultural or horticultural purposes on lands owned or leased by the owner or
 2514 lessee of such vehicles and not operated on or over any highway for any purpose other than to move it
 2515 in the manner and for the purpose mentioned. The amount of refund shall be equal to the amount of the
 2516 taxes paid less one-half cent per gallon on such fuel so used which shall be paid by the Commissioner
 2517 into the state treasury to the credit of the Virginia Agricultural Foundation Fund;

2518 19. Used in operating or propelling commercial watercraft. The amount of refund shall be equal to
2519 the amount of the taxes paid less one and one-half cents per gallon on such fuel so used which shall be
2520 paid by the Commissioner into the state treasury to be credited as provided in subsection D of
2521 § 58.1-2289. If any applicant so requests, the Commissioner shall pay into the state treasury, to the
2522 credit of the Game Protection Fund, the entire tax paid by such applicant for the purposes specified in
2523 subsection D of § 58.1-2289. If any applicant who is an operator of commercial watercraft so requests,
2524 the Commissioner shall pay into the state treasury, to the credit of the Marine Fishing Improvement
2525 Fund, the entire tax paid by such applicant for the purposes specified in § 28.2-208;

2526 20. Used in operating stationary engines, or pumping or mixing equipment on a highway vehicle if
2527 the fuel used to operate such equipment is stored in an auxiliary tank separate from the fuel tank used to
2528 propel the highway vehicle, and the highway vehicle is mechanically incapable of self-propulsion while
2529 fuel is being used from the auxiliary tank; or

2530 21. Used in operating or propelling recreational and pleasure watercraft.

2531 B. 1. Any person purchasing fuel for consumption in a solid waste compacting or ready-mix concrete
2532 highway vehicle, or a bulk feed delivery truck, where the vehicle's equipment is mechanically or
2533 hydraulically driven by an internal combustion engine that propels the vehicle, is entitled to a refund in
2534 an amount equal to 35 percent of the tax paid on such fuel. For purposes of this section, a "bulk feed
2535 delivery truck" means bulk animal feed delivery trucks utilizing power take-off (PTO) driven auger or
2536 air feed discharge systems for off-road deliveries of animal feed.

2537 2. Any person purchasing fuel for consumption in a vehicle designed or permanently adapted solely
2538 and exclusively for bulk spreading or spraying of agricultural liming materials, chemicals, or fertilizer,
2539 where the vehicle's equipment is mechanically or hydraulically driven by an internal combustion engine
2540 that propels the vehicle, is entitled to a refund in an amount equal to 55 percent of the tax paid on such
2541 fuel.

2542 C. Any person purchasing any fuel on which tax imposed pursuant to this chapter has been paid may
2543 apply for a refund of the tax if such fuel was consumed by a highway vehicle used in operating an
2544 urban or suburban bus line or a taxicab service. This refund also applies to a common carrier of
2545 passengers which has been issued a certificate of public convenience and necessity pursuant to
2546 §§ 46.2-2005 and 58.1-2204 providing regular route service over the highways of the Commonwealth.
2547 No refund shall be granted unless the majority of the passengers using such bus line, taxicab service or
2548 common carrier of passengers do so for travel of a distance of not more than 40 miles, one way, in a
2549 single day between their place of abode and their place of employment, shopping areas or schools.

2550 If the applicant for a refund is a taxicab service, he shall hold a valid permit from the Department to
2551 engage in the business of a taxicab service. No applicant shall be denied a refund by reason of the fee
2552 arrangement between the holder of the permit and the driver or drivers, if all other conditions of this
2553 section have been met.

2554 Under no circumstances shall a refund be granted more than once for the same fuel. The amount of
2555 refund under this subsection shall be equal to the amount of the taxes paid, except refunds granted on
2556 the tax paid on fuel used by a taxicab service shall be in an amount equal to the tax paid less \$0.01 per
2557 gallon on the fuel used.

2558 Any refunds made under this subsection shall be deducted from the urban highway funds allocated to
2559 the highway construction district, pursuant to Article 1.1 (§ 33.1-23.01 et seq.) of Chapter 1 of Title
2560 33.1, in which the recipient has its principal place of business.

2561 Except as otherwise provided in this chapter, all provisions of law applicable to the refund of fuel
2562 taxes by the Commissioner generally shall apply to the refunds authorized by this subsection. ~~Any~~Every
2563 county having withdrawn its roads from the secondary system of state highways under provisions of
2564 ~~§ 11 Chapter 415 of the Acts of 1932~~ shall receive its proportionate share of such special funds as is
2565 now provided by law with respect to other fuel tax receipts.

2566 D. Any person purchasing fuel for consumption in a vehicle designed or permanently adapted solely
2567 and exclusively for bulk spreading or spraying of agricultural liming materials, chemicals, or fertilizer,
2568 where the vehicle's equipment is mechanically or hydraulically driven by an internal combustion engine
2569 that propels the vehicle, is entitled to a refund in an amount equal to 55 percent of the tax paid on such
2570 fuel.

2571 E. Refunds resulting from any fuel shipments diverted from Virginia shall be based on the amount of
2572 tax paid for the fuel less discounts allowed by § 58.1-2233.

2573 F. Any person who is required to be licensed under this chapter and is applying for a refund shall
2574 not be eligible for such refund if the applicant was not licensed at the time the refundable transaction
2575 was conducted.

2576 § 58.1-2289. Disposition of tax revenue generally.

2577 A. Unless otherwise provided in this section, all taxes and fees, including civil penalties, collected by
2578 the Commissioner pursuant to this chapter, less a reasonable amount to be allocated for refunds, shall be
2579 promptly paid into the state treasury and shall constitute special funds within the Commonwealth

2580 Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for
 2581 use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds
 2582 shall accrue to these funds. Except as provided in § 33.1-23.03:1, no portion of the revenue derived
 2583 from taxes collected pursuant to §§ 58.1-2217, 58.1-2249 or § 58.1-2701, and remaining after authorized
 2584 refunds for nonhighway use of fuel, shall be used for any purpose other than the construction,
 2585 reconstruction or maintenance of the roads and projects comprising the State Highway System, *and* the
 2586 Interstate System ~~and the secondary system of state highways~~ and expenditures directly and necessarily
 2587 required for such purposes, including the retirement of revenue bonds.

2588 Revenues collected under this chapter may be also used for (i) contributions toward the construction,
 2589 reconstruction or maintenance of streets in cities and towns of such sums as may be provided by law
 2590 and (ii) expenditures for the operation and maintenance of the Department of Transportation, the
 2591 Department of Rail and Public Transportation, the Department of Aviation, the Virginia Port Authority,
 2592 and the Department of Motor Vehicles as may be provided by law.

2593 The Governor is hereby authorized to transfer out of such fund an amount necessary for the
 2594 inspection of gasoline and motor grease measuring and distributing equipment, and for the inspection
 2595 and analysis of gasoline for purity.

2596 B. The tax collected on each gallon of aviation fuel sold and delivered or used in this
 2597 Commonwealth, less refunds, shall be paid into a special fund of the state treasury. Proceeds of this
 2598 special fund within the Commonwealth Transportation Fund shall be disbursed upon order of the
 2599 Department of Aviation, on warrants of the Comptroller, to defray the cost of the administration of the
 2600 laws of this Commonwealth relating to aviation, for the construction, maintenance and improvement of
 2601 airports and landing fields to which the public now has or which it is proposed shall have access, and
 2602 for the promotion of aviation in the interest of operators and the public generally.

2603 C. One-half cent of the tax collected on each gallon of fuel on which the refund has been paid at the
 2604 rate of seventeen cents per gallon, or in the case of diesel fuel, fifteen and one-half cents per gallon, for
 2605 fuel consumed in tractors and unlicensed equipment used for agricultural purposes shall be paid into a
 2606 special fund of the state treasury, known as the Virginia Agricultural Foundation Fund, to be disbursed
 2607 to make certain refunds and defray the costs of the research and educational phases of the agricultural
 2608 program, including supplemental salary payments to certain employees at Virginia Polytechnic Institute
 2609 and State University, the Department of Agriculture and Consumer Services and the Virginia Truck and
 2610 Ornamentals Research Station, including reasonable expenses of the Virginia Agricultural Council.

2611 D. One and one-half cents of the tax collected on each gallon of fuel used to propel a commercial
 2612 watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of
 2613 the state treasury to be made available to the Board of Game and Inland Fisheries until expended for the
 2614 purposes provided generally in subsection C of § 29.1-701, including acquisition, construction,
 2615 improvement and maintenance of public boating access areas on the public waters of this
 2616 Commonwealth and for other activities and purposes of direct benefit and interest to the boating public
 2617 and for no other purpose. However, one and one-half cents per gallon on fuel used by commercial
 2618 fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be
 2619 used for the construction, repair, improvement and maintenance of the public docks of this
 2620 Commonwealth used by said commercial watercraft. Any expenditures for the acquisition, construction,
 2621 improvement and maintenance of the public docks shall be made according to a plan developed by the
 2622 Virginia Marine Resources Commission.

2623 From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for
 2624 the propelling of watercraft, after deduction for lawful refunds, there shall be paid into the state treasury
 2625 for use by the Marine Resources Commission, the Virginia Soil and Water Conservation Board, the
 2626 State Water Control Board, and the Commonwealth Transportation Board to (i) improve the public
 2627 docks as specified in this section, (ii) improve commercial and sports fisheries in Virginia's tidal waters,
 2628 (iii) make environmental improvements including, without limitation, fisheries management and habitat
 2629 enhancement in the Chesapeake and its tributaries, and (iv) further the purposes set forth in § 33.1-223,
 2630 a sum as established by the General Assembly.

2631 E. Notwithstanding other provisions of this section, there shall be transferred from moneys collected
 2632 pursuant to this section to a special fund within the Commonwealth Transportation Fund in the state
 2633 treasury, to be used to meet the necessary expenses of the Department of Motor Vehicles, an amount
 2634 equal to one percent of a sum to be calculated as follows: the tax revenues collected pursuant to this
 2635 chapter, at the tax rates in effect on December 31, 1986, less refunds authorized by this chapter and less
 2636 taxes collected for aviation fuels.

2637 **2. That the provisions of this act shall not affect contracts for construction of or improvements to**
 2638 **components of the state secondary highway system entered into prior to July 1, 2007.**

2639 **3. That §§ 15.2-3918, 33.1-23.1:1, 33.1-23.3, 33.1-23.4, 33.1-23.5:1, 33.1-44, 33.1-46, 33.1-47.1,**
 2640 **33.1-69.01, 33.1-70.01, 33.1-70.1, 33.1-70.2, 33.1-72.1, 33.1-75.1, 33.1-79, 33.1-82, 33.1-84 through**

2641 33.1-88, 33.1-150, 33.1-154, 33.1-210.2, 33.1-225, 33.1-225.2, 33.1-225.3, 33.1-228, and 46.2-809.1 of
2642 the Code of Virginia are repealed.
2643 4. That no locality shall use any moneys distributed pursuant to this act for any purpose other
2644 than for transportation purposes.
2645 5. That the provisions of this act shall become effective on July 1, 2007.