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SENATE BILL NO. 619**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Senate Committee on Finance
on February 8, 2012)

(Patron Prior to Substitute—Senator Lucas)

A BILL to amend and reenact § 33.1-23.03:4 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 1 of Title 33.1 an article numbered 17, consisting of sections numbered 33.1-223.10, 33.1-223.11, and 33.1-223.12, relating to the Commonwealth Tolling Assistance Program.

Be it enacted by the General Assembly of Virginia:

1. That § 33.1-23.03:4 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 1 of Title 33.1 an article numbered 17, consisting of sections numbered 33.1-223.10, 33.1-223.11, and 33.1-223.12, as follows:

§ 33.1-23.03:4. Toll Facilities Revolving Account.

A. Subject to any obligations to existing bondholders, but notwithstanding §§ 2.2-1806 and 58.1-13, funds deposited into the Transportation Trust Fund pursuant to subdivision 4 of § 33.1-23.03:1 shall be held in a separate subaccount to be designated the "Toll Facilities Revolving Account," hereinafter referred to as "the Account," together with all interest, dividends, and appreciation which accrue to the Transportation Trust Fund and which are not otherwise specifically directed by law or reserved by the Board in the resolution authorizing issuance of bonds to finance toll facilities. In addition, any funds received from the federal government or any agency or instrumentality thereof that, pursuant to federal law, may be made available, as loans or otherwise, to private persons or entities for transportation purposes, hereinafter referred to as "federal funds," shall be deposited in a segregated subaccount within the Account. Payments received with respect to any loan made from such segregated subaccount pursuant to subdivision B 2 of subsection B of this section shall also be deposited into such segregated subaccount in the Account.

A1. User fees collected in excess of the annual debt service, operations and maintenance expenses, and necessary administrative costs including any obligations to the Toll Facilities Revolving Account and any other obligations for qualifying facilities with respect to which an agency of the Commonwealth is the Responsible Public Entity under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) shall be deposited and held in the "Regional Toll Facilities Revolving Subaccount," hereinafter referred to as the "Regional Account," together with all interest, dividends and appreciation for use within the metropolitan planning organization region within which the facility exists. Payments received with respect to any loan made from such Regional Account pursuant to subdivision B 3 of subsection B of this section shall also be deposited into the Regional Account.

B. The Board may make allocations upon such terms and subject to such conditions as the Board deems appropriate, from the following funds for the following purposes:

1. From any funds in the Account, exclusive of those in the Regional Account, to pay or finance all or part of the costs, including the cost of planning, operation, maintenance, and improvements incurred in connection with the acquisition and construction of projects financed in whole or in part as toll facilities or to refinance existing toll facilities, provided that any such funds allocated from the Account for a planned or operating toll facility shall be considered as an advance of funding for which the Account shall be reimbursed;

2. From funds in the segregated subaccount in the Account into which federal funds are deposited in conjunction with the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) and pursuant to the terms of a comprehensive agreement between a responsible public entity and a private operator as provided for in that act:

a. To make a loan to such operator to pay any cost of a qualifying transportation facility, provided that: (i) the operator's return on its investment is limited to a reasonable rate and (ii) such loan is limited to a reasonable term; or

b. To pay the Commonwealth's or its agency's portion of costs incurred or to be incurred in accordance with a comprehensive agreement with respect to a transportation facility.

All definitions of terms shall be as provided in the Public-Private Transportation Act of 1995;

3. From funds in the Regional Account:

a. To pay or finance all or part of the costs, including the cost of planning, operation, maintenance, and improvements incurred in connection with the acquisition and construction of projects financed in whole or in part as toll facilities or to refinance existing toll facilities, provided that (i) allocations from the Regional Account shall be limited to projects located within the same metropolitan planning organization region as the facility which generated the excess revenue and (ii) any such funds allocated

60 from the Regional Account for a planned or operating toll facility shall be considered as an advance of
61 funding for which the Regional Account shall be reimbursed; or

62 b. To pay the Commonwealth's, its agency's, or its political subdivision's costs incurred or to be
63 incurred in accordance with a comprehensive agreement with respect to a transportation facility within
64 the same metropolitan planning organization region as the facility which generated the excess revenue.
65 All definitions of terms shall be as provided in the Public-Private Transportation Act of 1995; and

66 4. *From any funds in the Account or Regional Account, to provide funds for the Commonwealth*
67 *Tolling Assistance Fund established pursuant to § 33.1-223.12; and*

68 5. From any funds in the Account or Regional Account, to pay the Board's reasonable costs and
69 expenses incurred in (i) the administration and management of the Account, (ii) its program of financing
70 or refinancing costs of toll facilities, and (iii) the making of loans and paying of costs described in
71 subdivisions 1 and 2 of this subsection.

72 C. The Board may transfer from the Account to the Transportation Trust Fund for allocation pursuant
73 to subsection B of § 33.1-23.1 any interest revenues and, subject to applicable federal limitations, federal
74 funds not committed by the Board to the purposes provided for in subsection B of this section.

75 D. The provisions of this section shall be liberally construed to the end that its beneficial purposes
76 may be effectuated. Insofar as this provision is inconsistent with the provisions of any other general,
77 special, or local law, this provision shall be controlling.

78 E. If any provision of this section or the application thereof to any person or circumstances is held
79 invalid by a court of competent jurisdiction, invalidity shall not affect other provisions or applications of
80 this section that can be given effect without the invalid provision or application, and to this end the
81 provisions of this section are declared to be severable.

82 *Article 17.*

83 *Commonwealth Tolling Assistance Program.*

84 *§ 33.1-223.10. Definitions.*

85 *As used in this article, unless the context requires a different meaning:*

86 *"Eligible person" means a resident of the Commonwealth who lives in a household that qualifies for*
87 *and receives benefits under the Supplemental Nutrition Assistance Program (7 USC § 2011 et seq.) and*
88 *who is enrolled full-time in a two-year or four-year public institution of higher education in the*
89 *Commonwealth that is within a planning district which is traversed by the Elizabeth River or the James*
90 *River and which is adjacent to the Chesapeake Bay.*

91 *"Fund" means the Commonwealth Tolling Assistance Fund established pursuant to § 33.1-223.12.*

92 *"Program" means the Commonwealth Tolling Assistance Program.*

93 *§ 33.1-223.11. Commonwealth Tolling Assistance Program.*

94 A. *There is hereby established the Commonwealth Tolling Assistance Program. The Program shall*
95 *provide electronic tolling transponders to eligible persons. Transponders provided under the Program*
96 *shall not require any deposit normally required to obtain an electronic tolling transponder. Eligible*
97 *persons may, quarterly, provide to the Department of Transportation evidence of their toll usage and be*
98 *reimbursed in the form of a deposit to their E-ZPass account used to pay tolls electronically on the*
99 *highways of the Commonwealth.*

100 B. *Eligible persons shall apply to the Department of Transportation to participate in the Program.*
101 *Eligible persons applying to the Program shall provide to the Department of Transportation proof of*
102 *full-time enrollment at a two-year or four-year institution of higher education in the Commonwealth.*
103 *The Department of Transportation shall coordinate with the Department of Social Services to verify that*
104 *a person applying to the program is eligible to participate.*

105 C. *Reimbursement funds shall only be provided to the extent that sufficient funds exist in the*
106 *Commonwealth Tolling Assistance Fund.*

107 D. *The Department of Transportation shall develop regulations to implement the provisions of this*
108 *act.*

109 *§ 33.1-223.12. Commonwealth Tolling Assistance Fund.*

110 *There is hereby created in the state treasury a special nonreverting, permanent fund, to be known as*
111 *the Commonwealth Tolling Assistance Fund (the Fund), to be administered by the Commissioner. The*
112 *Fund shall consist of (i) sums designated for the Fund pursuant to § 33.1-23.03:4, (ii) funds as may be*
113 *appropriated by the General Assembly, and (iii) any other gifts, grants, or donations from public or*
114 *private sources. The Fund shall be established on the books of the Comptroller. Interest earned on*
115 *moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund*
116 *at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall*
117 *remain in the Fund. Expenditures and disbursements from the Fund, which shall be solely for the*
118 *purpose of toll reimbursement pursuant to § 33.1-223.11, shall be made by the State Treasurer on*
119 *warrants issued by the Comptroller upon written request signed by the Commissioner.*

120 **2. That the provisions of this act shall not become effective unless an appropriation of general**
121 **funds effectuating the purposes of this act is included in a general appropriation act passed by the**

122 2012 Session of the General Assembly, which becomes law.

SENATE SUBSTITUTE

SB619S1