

**TITLE 33.2 REVISION DRAFT, CHAPTER 2**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAPTER 2.

HIGHWAYS, BRIDGES, AND FERRIES.

**Drafting note: This proposed Chapter 2 combines in one location salient points of the Code dealing with highways, bridges, and ferries.**

Article 1.

Commissioner of Highways.

**Drafting note: This article delineates the duties and responsibilities of the Commissioner of Highways.**

~~§ 33.1-3 33.2-200. Secretary to be Chairman;~~ Commissioner of Highways.

~~The Chairman of the Commonwealth Transportation Board shall be the Secretary of Transportation.~~

The Commissioner of Highways, ~~hereinafter in this title sometimes called "the Commissioner,"~~ shall be the chief executive officer of the Department of Transportation. The Commissioner of Highways may, at the time of his appointment, be a nonresident of Virginia, shall be an experienced administrator, able to direct and guide the Department in the establishment and achievement of the Commonwealth's long-range highway and other transportation objectives, and shall be appointed at large.

The Commissioner of Highways shall devote his entire time and attention to his duties as chief executive officer of the Department and shall receive such compensation as shall be fixed by the ~~Commonwealth Transportation~~ Board, subject to the approval of the Governor. He shall also be reimbursed for his actual travel expenses while engaged in the discharge of his duties.

In the event of a vacancy due to the death, temporary disability, retirement, resignation, or removal of the Commissioner of Highways, the Governor may appoint and thereafter remove at his pleasure an "Acting Commissioner of Highways" until such time as the vacancy may be filled as provided in ~~§ 33.1-1 33.2-XXX~~. Such "Acting Commissioner of Highways" shall have

26 | all powers and perform all duties of the Commissioner [of Highways](#) as provided by law; and  
27 | shall receive such compensation as may be fixed by the Governor. In the event of the temporary  
28 | disability; for any reason; of the Commissioner [of Highways](#), full effect shall be given to the  
29 | provisions of § 2.2-605.

30 | **Drafting note: The provision designating the Secretary of Transportation as**  
31 | **chairman of the Board is already in the section describing the membership of the**  
32 | **Commonwealth Transportation Board, which is in existing § 33.1-1 and proposed § 33.2-**  
33 | **XXX, so it is not needed in this section. Technical changes are also made.**

34 | **There are some questions by the drafters regarding language in the first paragraph**  
35 | **as to whether we require the Commissioner to become a resident of Virginia, and if not, if**  
36 | **that language and the language "appointed at large" is necessary.**

37 | § ~~33.1-13~~ [33.2-201](#). General powers of Commissioner [of Highways](#).

38 | Except such powers as are conferred by law upon the ~~Commonwealth Transportation~~  
39 | Board, the Commissioner of Highways shall have the power to do all acts necessary or  
40 | convenient for constructing, improving, maintaining, and preserving the efficient operation of  
41 | the ~~roads~~ [highways](#) embraced in the systems of state highways and to further the interests of the  
42 | Commonwealth in the areas of public transportation, railways, seaports, and airports. And as  
43 | executive head of the ~~Transportation~~ Department, the Commissioner [of Highways](#) is specifically  
44 | charged with the duty of executing all orders and decisions of the Board and ~~he~~ may, subject to  
45 | the provisions of this chapter, require that all appointees and employees perform their duties  
46 | under this chapter.

47 | In addition, the Commissioner [of Highways](#), in order to maximize efficiency, shall take  
48 | such steps as may be appropriate to outsource or privatize any of the Department's functions that  
49 | might reasonably be provided by the private sector.

50 | **Drafting note: Technical changes.**

51 | § ~~33.1-8~~ [33.2-202](#). Employees; delegation of responsibilities.

52 The Commissioner of Highways shall employ such engineers, clerks, assistants, and  
53 other employees as may be needed, and shall prescribe and fix their duties, including the  
54 delegation of duties and responsibilities conferred or imposed upon the Commissioner of  
55 Highways by law. They shall receive all salaries and expenses as may be fixed in accordance  
56 with the provisions of law.

57 **Drafting note: Technical changes.**

58 § ~~33.1-11~~ 33.2-203. Defense of Board employees.

59 If any person employed by the ~~Commonwealth Transportation~~ Board ~~shall be is~~ arrested  
60 or indicted or otherwise prosecuted on any charge arising out of any act committed in the  
61 discharge of his official duties, the Commissioner of Highways may employ special counsel  
62 approved by the Attorney General to defend such employee. The compensation for special  
63 counsel employed, pursuant to this section, shall, subject to the approval of the Attorney  
64 General, be paid out of the funds appropriated for the administration of the ~~Commonwealth~~  
65 Transportation Board.

66 **Drafting note: Technical changes.**

67 § ~~33.1-12.1~~ 33.2-204. Agreements between Commissioner of Highways and certain  
68 cities and towns.

69 Notwithstanding the provisions of §§ ~~33.1-12~~ 33.2-XXX and ~~33.1-23.3~~ 33.2-XXX, the  
70 Commissioner of Highways, pursuant to a resolution adopted by the ~~Commonwealth~~  
71 Transportation Board and following receipt of a resolution adopted by the governing body of a  
72 city or town ~~council~~ to which funds are apportioned pursuant to § ~~33.1-23.3~~ 33.2-XXX, may  
73 enter into an agreement with any such city or town pursuant to which the city or town assumes  
74 responsibility for the design, right-of-way acquisition, and construction of urban system  
75 highways or portions thereof in such city or town, using funds allocated pursuant to subdivision  
76 B 2 of subsection B of § ~~33.1-23.1~~ 33.2-XXX.

77           **Drafting note: The reference to "council" has been changed to "governing body"**  
78 **so as to remain consistent with the terminology used throughout this title. Technical**  
79 **changes are also made.**

80           § ~~33.1-223.2-2~~ 33.2-XXX. Commissioner of Highways to provide written notice of  
81 decision to dispose of real property.

82           Whenever the ~~Commonwealth Transportation~~ Board or the Department decides to sell or  
83 otherwise dispose of any surplus real property, the Commissioner of Highways shall provide  
84 written notice of such decision to the mayor or chairman of the governing body of the locality in  
85 which the property or any portion thereof is located. Any failure to provide or receive such  
86 notice shall not create a cloud on the title to the property.

87           **Drafting note: Technical changes.**

88           § ~~33.1-12.2~~ 33.2-205. Commissioner of Highways to establish community service  
89 landscaping program.

90           The Commissioner of Highways shall establish a program whereby persons convicted of  
91 nonviolent misdemeanors who have received a suspended sentence or probation can fulfill their  
92 community service requirements by mowing rights-of-way and performing other landscaping  
93 maintenance tasks for roads and highways that the Department has the responsibility to  
94 maintain.

95           **Drafting note: Technical changes.**

96           §§ ~~33.1-13.01.~~, ~~33.1-13.02.~~

97           **Drafting note: Repealed by Acts 2011, cc. 36 and 152, cl. 2.**

98           § ~~33.1-13.03~~ 33.2-206. Annual report by ~~the Virginia Department of Transportation~~  
99 Commissioner of Highways.

100           The Commissioner of Highways shall annually report in writing to the Governor and  
101 General Assembly, no later than November 30 each year, on (i) the condition and performance  
102 of the existing transportation infrastructure, using an asset management methodology and  
103 generally accepted engineering principles and business practices to identify and prioritize

104 maintenance and operations needs and to identify performance standards to be used to determine  
105 those needs, and funding required to meet those needs; (ii) the Department's strategies for  
106 improving safety and security, increasing efficiency in agency programs and projects, and  
107 collaborating with the private sector and local government in the delivery of services; (iii) the  
108 operating and financial activities of the Department, including, ~~but not limited to,~~ the  
109 construction and maintenance programs, transportation costs and revenue, and federal  
110 allocations; and (iv) other such matters of importance to transportation in the Commonwealth.

111 **Drafting note: The section catchline is amended to comport with the content of the**  
112 **section itself. Here and in other proposed sections, "but not limited to" or similar language**  
113 **is removed when using the term "including" based on § 1-218, which states "'Includes'**  
114 **means includes, but not limited to." Technical changes are also made.**

115 § ~~33.1-190~~ 33.2-207. Construction by state or local employees.

116 A. Irrespective of the provisions of § ~~33.1-185~~ 33.2-XXX, in cases of emergency or on  
117 any project reasonably estimated to cost not more than \$600,000, the Commissioner of  
118 Highways may, ~~at his discretion,~~ build or maintain any of the ~~roads~~ highways ~~in any system of~~  
119 either the primary or secondary state ~~highways~~ highway systems by state employees or local  
120 employees as he may designate.

121 B. Notwithstanding the provisions of subsection A, the Commissioner of Highways may  
122 enter into a written agreement with a locality for the building and maintenance of any of the  
123 ~~roads~~ highways ~~in any system of either the primary or secondary~~ state ~~highways~~ highway  
124 system by local employees provided that: (i) the locality has obtained a cost estimate for the  
125 work of not more than \$1 million and (ii) the locality has issued an invitation for bid and has  
126 received fewer than two bids from private entities to build or maintain such roads.

127 **Drafting note: References to "any system of state highways" are amended to reflect**  
128 **the two existing state highway systems, the primary and the secondary systems, for the**  
129 **sake of clarity, so that they are not confused with the systems of state highways. Technical**  
130 **changes are made.**

131 § ~~33.1-185~~ 33.2-208. Advertising for bids.

132 All projects reasonably estimated to cost \$300,000 or more that the ~~Commonwealth~~  
133 ~~Transportation~~ Board or the Commissioner of Highways may undertake for construction shall,  
134 ~~when such projects are reasonably estimated to cost \$300,000 or more,~~ be let in accordance with  
135 Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2. When such projects are reasonably estimated to cost  
136 below \$300,000, the Commissioner of Highways may let them to contract, and if such projects  
137 are let to contract, they shall be let only in accordance with Chapter 43 of Title 2.2.

138 ~~The word "project" as As used in this section shall mean, "project" means~~ construction  
139 and ~~shall does~~ not include routine maintenance work or the installation of traffic control devices,  
140 unless such work is to be performed under contract.

141 **Drafting note: Technical changes.**

142 ~~§§ 33.1-186. through 33.1-189.~~

143 **Drafting note: Repealed by Acts 1982, c. 647.**

144 § ~~33.1-222~~ 33.2-209. Maps or plats prepared at request and expense of local governing  
145 bodies and other groups; Department of Mines, Minerals and Energy to seek other existing  
146 sources.

147 The Commissioner of Highways ~~is hereby authorized in his discretion to have prepared~~  
148 may prepare photogrammetric maps or plats of specific sites or areas at the request of the  
149 governing bodies of ~~counties, cities and towns~~ localities of ~~this~~ the Commonwealth, local  
150 nonprofit industrial development agencies, planning district commissions, soil and water  
151 conservation districts, metropolitan planning organizations, public service authorities, and local  
152 chambers of commerce. The request shall have been first reviewed by the Department of Mines,  
153 Minerals and Energy to determine whether suitable or alternate maps or plats are currently  
154 available, and the local governing body, agency, or chamber must agree to reimburse the  
155 Department of Transportation for the cost of producing the maps or plats.

156 **Drafting note: Technical changes are made, including changing "counties, cities,**  
157 **and towns" to "localities" in keeping with the definition of "locality" in § 1-221.**

158 § ~~33.1-223.2:3~~ 33.2-210. Directional signs for certain educational institutions.

159 For the purpose of this section, "Virginia educational institution" means a for-profit  
160 educational institution with its main campus located in the Commonwealth that (i) has, for at  
161 least five consecutive years prior to making a request under this section, awarded academic  
162 degrees approved by the State Council of Higher Education for Virginia; (ii) offers programs in  
163 workforce training or job readiness that contribute to Virginia's economic growth and  
164 development; and (iii) has a combined annual enrollment of at least 1,000 students at its main  
165 campus and any branch location situated within a radius of 25 miles from the main campus.

166 Upon request from the institution, the Commissioner of Highways shall erect and  
167 maintain; signs at appropriate and conspicuous locations along interstate, primary, or secondary  
168 highways; signs providing motorists directions to the main or branch location of any Virginia  
169 educational institution. All costs associated with production and erection of signs under this  
170 section shall be borne by the affected institution, but all costs associated with maintenance of  
171 those signs shall be borne by the Virginia Department of Transportation.

172 ~~For the purpose of this section, "Virginia educational institution" means a for-profit~~  
173 ~~educational institution with its main campus located in Virginia that (i) has, for at least five~~  
174 ~~consecutive years prior to making a request under this section, awarded academic degrees~~  
175 ~~approved by the State Council of Higher Education; (ii) offers programs in workforce training~~  
176 ~~or job readiness that contribute to Virginia's economic growth and development; and (iii) has a~~  
177 ~~combined annual enrollment of at least 1,000 students at its main campus and any branch~~  
178 ~~location situated within a radius of twenty-five miles from the main campus. Signs erected by~~  
179 ~~the Virginia Department of Transportation under this section shall be placed in accordance with~~  
180 all applicable Departmental regulations.

181 **Drafting note: The definition in this section is moved to the beginning for clarity.**

182 **Technical changes are made.**

183 § ~~33.1-193~~ 33.2-211. Closing highways for safety of public or proper completion of  
184 construction; injury to barriers, signs, etc.

185 If it ~~shall appear~~ appears to the Commissioner of Highways necessary for the safety of  
186 the traveling public or for proper completion of work ~~which that~~ is being performed to close any  
187 ~~road or~~ highway ~~coming~~ under his jurisdiction to all traffic or any class of traffic, the  
188 Commissioner of Highways may close, or cause to be closed, the whole or any portion of such  
189 ~~road or~~ highway deemed necessary to be excluded from public travel and may exclude all or any  
190 class of traffic from such closed portion. While any such ~~road or~~ highway, or portion thereof, is  
191 so closed, or while any such ~~road or~~ highway, or portion thereof, is in process of construction or  
192 maintenance, the Commissioner of Highways, or contractor, under authority from the  
193 Commissioner of Highways, may erect, or cause to be erected, suitable barriers or obstructions  
194 thereon, may post, or cause to be posted, conspicuous notices to the effect that the ~~road or~~  
195 highway, or portion, is closed and may place warning signs, lights, and lanterns on such ~~road or~~  
196 highway, or portions thereof. When such ~~road or~~ highway is closed for the safety of the  
197 traveling public or in process of construction or maintenance, as provided in this section, any  
198 person who willfully breaks down, drives into new construction work, removes, injures, or  
199 destroys any such barrier or barriers or obstructions, tears down, removes, or destroys any such  
200 notices, or extinguishes, removes, injures, or destroys any such warning lights or lanterns so  
201 erected, posted, or placed ~~shall be is~~ guilty of a Class 1 misdemeanor.

202 **Drafting note: This section is one of a great many in which "road" and "highway"**  
203 **are used interchangeably, sometimes in the same sentence. This draft has sought to use**  
204 **"highway" to refer to state-controlled and state-maintained thoroughfares and to use**  
205 **"road" to refer to other thoroughfares. Technical changes are also made.**

206 § ~~33.1-194~~ 33.2-212. Providing ~~road~~ highway detours.

207 Whenever necessary, the Commissioner of Highways shall select, lay out, maintain, and  
208 keep in as good repair as possible suitable detours, by the most practical route, while the  
209 highways ~~or roads~~ are being improved or constructed, and he shall place or cause to be placed  
210 explicit directions to the traveling public during repair of any such highway ~~or road~~ under  
211 process of construction.

212           **Drafting note: References to "road" are stricken to maintain the practice of using**  
213 **the term "highway." A technical change is also made.**

214           § ~~33.1-197~~ 33.2-213. Connections over shoulders of highways for intersecting private  
215 roads.

216           The Commissioner of Highways shall permit, ~~at places~~ suitable connections from where  
217 private roads leading to and from private homes intersect improved highways, ~~suitable~~  
218 ~~connections from such points of intersection, and~~ over and across the shoulders and unimproved  
219 parts of such highways to the paved or otherwise improved parts thereof, ~~so as~~ to provide ~~for~~ the  
220 users of such private roads safe and convenient means of ingress and egress with motor vehicles  
221 to and from the paved or otherwise improved parts of such highways.

222           **Drafting note: Technical changes and modernization of language.**

223           § ~~33.1-198~~ 33.2-214. Connections over shoulders of highways for intersecting  
224 commercial establishment entrances.

225           The Commissioner of Highways shall permit, ~~at places~~ suitable connections from where  
226 commercial establishment entrances are desired to intersect improved highways, ~~suitable~~  
227 ~~connections from such points of intersection and~~ over and across the shoulders and unimproved  
228 parts of such highways to the paved or otherwise improved parts thereof that comply with the  
229 ~~Commissioner of Highways'~~ access management standards of the Commissioner of Highways  
230 for the location, spacing, and design of entrances, taking into account the operating  
231 characteristics and federal functional classification of the highway, ~~so as~~ to provide ~~for~~ the users  
232 of such entrances safe and convenient means of ingress and egress with motor vehicles to and  
233 from the paved or otherwise improved parts of such highways while minimizing the impact of  
234 such ingress and egress on the operation of such highways, provided, ~~however,~~ that any person  
235 desiring such an entrance shall:

- 236           1. Be required first to obtain a permit therefor from the Commissioner of Highways;  
237           2. Provide the entrance at his expense;

238 3. If required by the Commissioner of Highways, provide for the joint use of the desired  
239 entrance with adjacent property owners or provide evidence of such efforts; and

240 4. Construct the entrance or have the entrance constructed, including such safety  
241 structures as are required by the Commissioner of Highways, pursuant to ~~the Department of~~  
242 ~~Transportation's design standards and "Land Use Permit Manual," the latter of which is filed as~~  
243 ~~part of the Virginia Administrative Code~~ applicable state regulations concerning highway access  
244 management standards and land use permits.

245 All commercial entrances whether or not constructed under this section shall be  
246 maintained by the owner of the premises at all times in a manner satisfactory to the  
247 Commissioner of Highways.

248 Any person violating the provisions of this section ~~shall be is~~ guilty of a misdemeanor,  
249 ~~and, upon conviction, shall be fined~~ punishable as a fine of not less than \$5 nor more than \$100  
250 for each offense. Following a conviction and 15 days for correction, each day during which the  
251 violation continues shall constitute a separate and distinct offense and be punishable as such.  
252 Such person shall be civilly liable to the Commonwealth for actual damage sustained by the  
253 Commonwealth by reason of his wrongful act.

254 **Drafting note: The Land Use Permit Manual was repealed from the Virginia**  
255 **Administrative Code in 2010 and replaced in VAC with a chapter named Land Use Permit**  
256 **Regulations; accordingly its reference is stricken and replaced with more generic and up-**  
257 **to-date language from the Department of Transportation. Technical changes are also**  
258 **made.**

259 § ~~33.1-199~~ 33.2-215. Replacing entrances destroyed ~~by Commissioner in the repair or~~  
260 construction of highways.

261 The Commissioner of Highways shall review the existing access to any parcel of land  
262 having an entrance destroyed in the repair or construction of the systems of state highways and  
263 shall provide access to the systems of state highways in a manner that will serve the parcel of  
264 land and ensure efficient and safe highway operation.

265 **Drafting note: The catchline has been amended to better reflect the actual content**  
266 **of the section.**

267 § ~~33.1-200~~ 33.2-216. Paying for damages sustained to personal property ~~by reason~~  
268 because of work projects, etc.

269 The Commissioner of Highways ~~is authorized and empowered, in his discretion, to may~~  
270 pay and settle claims and demands against the Commonwealth arising as a result of damages  
271 sustained to personal property by reason of work projects or the operation of state-owned or  
272 operated equipment when engaged in the construction, reconstruction, or maintenance of the  
273 State Highway System primary state highway system, unless said claims or demands arise as a  
274 result of negligence of the person or persons asserting such claims or demands. Nothing ~~herein~~  
275 contained in this section shall be construed as imposing any legal liability upon the  
276 Commonwealth to pay such claims or demands, nor as giving the consent of the Commonwealth  
277 to be sued in any action or suit to recover on such claims or demands in the event the ~~said~~  
278 Commissioner of Highways refuses payment of said claims or demands.

279 **Drafting note: For clarity and in keeping with the practice throughout this title, a**  
280 **reference to the State Highway System is amended to the primary state highway system,**  
281 **because both refer to the same highway system. Technical changes are also made.**

282 § ~~33.1-200.2~~ 33.2-XXX. Removal of snow and ice from public highways by private  
283 entities.

284 Upon request by a person, the Commissioner of Highways may authorize such person to  
285 hire private persons, firms, contractors, or entities to remove snow and ice from any public  
286 highway in Planning District ~~Eight~~ 8, provided that there will be no costs to the Commonwealth  
287 or its political subdivisions for work pursuant to this ~~section~~ subsection. No private person, firm,  
288 contractor, or entity employed to remove snow and ice from any public highway shall be  
289 afforded sovereign immunity or immunity in any form whatsoever. Private persons, firms,  
290 contractors, or entities so employed shall be liable for civil damages, including, ~~but not limited~~  
291 to, damages for death, injury, or property damage resulting from any act or omission relating to

292 the removal of snow and ice from public highways. Nothing contained in this section shall limit  
293 the authority of the Commissioner, of Highways granted under other provisions of law, to  
294 authorize or contract for the removal of snow and ice from public highways.

295 **Drafting note: Here and in other proposed sections, "but not limited to" or similar**  
296 **language is removed when using the term "including" based on § 1-218, which states:**  
297 **"'Includes' means includes, but not limited to." Technical changes are also made.**

298 § 33.1-198.1 33.2-217. -Comprehensive Commissioner of Highways to develop and  
299 implement comprehensive highway access management standards.

300 A. -Comprehensive For purposes of this section, "Comprehensive highway access  
301 management-standards-are-defined-as standards" means a coordinated set of state standards and  
302 guidelines that allow the Commonwealth and its localities to manage access to the systems of  
303 state highways according to their federal functional classification or operational characteristics  
304 through the control of and improvements to the location, number, spacing, and design of  
305 entrances, median openings, turn lanes, street intersections, traffic signals, and interchanges.

306 B. The General Assembly declares it to be in the public interest that comprehensive  
307 highway access management standards be developed and implemented to enhance the operation  
308 and safety of the systems of state highways in order to protect the public health, safety, and  
309 general welfare while ensuring that private property is entitled to reasonable access to the  
310 systems of state highways. The goals of the comprehensive highway access management  
311 standards are:

312 1. To reduce traffic congestion and impacts to the level of service of highways, leading  
313 to reduced fuel consumption and air pollution;

314 2. To enhance public safety by decreasing traffic crash rates;

315 3. To support economic development in the Commonwealth by promoting the efficient  
316 movement of people and goods;

317 4. To reduce the need for new highways and road widening by improving the  
318 performance of the existing systems of state highways; and

319 5. To preserve public investment in new highways by maximizing their performance.

320 C. The Commissioner of Highways shall develop and implement comprehensive  
321 highway access management standards for managing access to and preserving and improving  
322 the efficient operation of the ~~state~~ systems of state highways. The comprehensive highway  
323 access management standards shall include ~~but not be limited to~~ standards and guidelines for the  
324 location, number, spacing, and design of entrances, median openings, turn lanes, street  
325 intersections, traffic signals, and interchanges.

326 Nothing in such standards shall preempt the authority of a local government to regulate  
327 the type or density of land uses abutting the ~~state system of~~ systems of state highways.

328 **Drafting note: References to the "state system of highways" have been amended to**  
329 **reflect the definition in § 1-251: "systems of state highways" meaning all roads within the**  
330 **jurisdiction and control of the Commonwealth Transportation Board. Technical changes**  
331 **are also made.**

332 § ~~33.1-217~~ 33.2-234. ~~Establishment of recreational~~ Recreational waysides; regulations;  
333 penalties for violations.

334 ~~(a)~~ A. To promote the safety, convenience, and enjoyment of travel on, and protection of  
335 the public investment in, highways of ~~this the~~ Commonwealth, and for the restoration,  
336 preservation, and enhancement of scenic beauty within and adjoining such highways, it is  
337 hereby declared to be in the public interest to acquire and establish recreational waysides and  
338 areas of scenic beauty adjoining the highways of ~~this the~~ Commonwealth.

339 ~~(b)~~ B. The Commissioner of Highways may, whenever in his opinion it is ~~to~~ in the best  
340 interest of the Commonwealth, accept from the United States, or any authorized agency thereof,  
341 a grant or grants of any recreational waysides established and constructed by the United States,  
342 or any such agency thereof, or a grant or grants of funds for landscaping and scenic  
343 enhancement of highways, and the Commissioner of Highways may, on behalf of the  
344 Commonwealth, enter into a contract or contracts with the United States, or any such agency  
345 thereof, to maintain and operate any such recreational waysides ~~which that~~ may be so granted to

346 the Commonwealth and may do all things necessary to receive and expend federal funds for  
347 landscaping and scenic enhancement.

348 ~~(c) C.~~ The Commissioner of Highways may, whenever it is ~~to in~~ the best interest of the  
349 operation of the ~~interstate, Interstate System or~~ the primary or ~~the~~ secondary state highway  
350 system ~~of state highways~~, establish, construct, maintain, and operate adjoining the state highway  
351 appropriate recreational waysides and areas of scenic beauty adjoining such highways.

352 ~~(d) D.~~ The Commissioner ~~is authorized to~~ of Highways may acquire by purchase, gift, or  
353 the power of eminent domain such land or interest in land as may be necessary to carry out the  
354 provisions of this section, provided that in exercising the power of eminent domain for areas of  
355 scenic beauty, such areas must adjoin and lie within ~~one hundred~~ 100 feet of the right-of-way of  
356 the highway, and the procedure shall be, mutatis mutandis, ~~the same~~ as provided for the  
357 acquisition of land by the Commissioner of Highways in ~~Article 7 (§ 33.1-89 et seq.) of this~~  
358 chapter XXX.

359 ~~§ 33.1-218. Rules and regulations for use of recreational waysides.~~

360 E. The ~~Commonwealth Transportation~~ Board ~~is authorized and empowered to may~~  
361 establish ~~rules and~~ regulations for the use of recreational waysides including ~~rules and~~  
362 regulations relating to ~~(a) (i)~~ the time, place, and manner of parking of vehicles, ~~(b); (ii)~~  
363 activities ~~which that~~ may be conducted within such waysides, ~~(c); (iii)~~ solicitation and selling  
364 within the waysides, ~~(d); and (iv)~~ such other matters as may be necessary or expedient in the  
365 interest of the motoring public.

366 The ~~rules and~~ regulations when adopted by the ~~Commonwealth Transportation~~ Board  
367 shall be posted in a conspicuous place at each wayside, along with such other signs as the  
368 Commissioner of Highways deems necessary to advise the public.

369 Any person violating any ~~rule and~~ regulation adopted under this section ~~shall be is~~ guilty  
370 of a misdemeanor ~~and upon conviction be fined~~ punishable as a fine of not less than \$5 nor  
371 more than \$100 for each offense.

372 ~~§ 33.1-219. Such waysides part of interstate, primary or secondary system.~~

373 F. Such recreational waysides and areas of scenic beauty; when so acquired, established,  
374 maintained, and operated shall be deemed to be a part of the ~~interstate~~, Interstate System or  
375 primary or secondary state highway system; but land acquired for areas of scenic beauty shall  
376 not be deemed a part of the right-of-way for the purpose of future acquisition of areas of scenic  
377 beauty under the provisions of § ~~33.1-217~~ 33.2-XXX.

378 **Drafting note: This proposed section combines §§ 33.1-217, 33.1-218, and 33.1-219,**  
379 **all of which deal in some way with recreational waysides. Technical changes are also**  
380 **made, including use of "regulations" rather than "rules and regulations" per**  
381 **recommendation of the Code Commission.**

382 § 33.1-220.

383 **Drafting note: Repealed by Acts 2011, c. 428.**

384 § 33.1-223.2:1 33.2-218. Wetlands mitigation banking.

385 When authorization is required by federal or state law for any project affecting wetlands  
386 and such authorization is conditioned upon compensatory mitigation for adverse impacts to  
387 wetlands, the Commissioner of Highways is authorized to expend funds for the purchase of, or  
388 is authorized to use, credits from any wetlands mitigation bank, including any owned by the  
389 Department, that has been approved and is operating in accordance with applicable federal and  
390 state guidance, laws, or regulations for the establishment, use, and operation of mitigation banks  
391 as long as: ~~(1)~~ (i) the bank is in the same fourth order subbasin, as defined by the hydrologic  
392 unit boundaries of the National Watershed Boundary Dataset, as the impacted site, or in an  
393 adjacent subbasin within the same river watershed; as the impacted site, or it meets all the  
394 conditions found in clauses ~~(i)~~ (a) through ~~(iv)~~ (d) and either clause ~~(v)~~ (e) or ~~(vi)~~ of this section  
395 (f); ~~(2)~~ (ii) the bank is ecologically preferable to practicable on-site and off-site individual  
396 mitigation options, as defined by federal wetland regulations; and ~~(3)~~ (iii) the banking  
397 instrument, if approved after July 1, 1996, has been approved by a process that included public  
398 review and comment. When the bank is not located in the same subbasin or adjacent subbasin  
399 within the same river watershed as the impacted site, the purchase or use of credits shall not be

400 allowed unless the Commissioner [of Highways](#) demonstrates to the satisfaction of the agency  
401 requiring compensatory mitigation that ~~(i)~~ [\(a\)](#) the impacts will occur as a result of a ~~Virginia~~  
402 Department of Transportation linear project; ~~(ii)~~ [\(b\)](#) there is no practical same river watershed  
403 mitigation alternative; ~~(iii)~~ [\(c\)](#) the impacts are less than one acre in a single and complete project  
404 within a subbasin; ~~(iv)~~ [\(d\)](#) there is no significant harm to water quality or fish and wildlife  
405 resources within the river watershed of the impacted site; and either ~~(v)~~ [\(e\)](#) impacts within the  
406 Chesapeake Bay watershed are mitigated within the Chesapeake Bay watershed as close as  
407 possible to the impacted site or ~~(vi)~~ [\(f\)](#) impacts within subbasins 02080108, 02080208, and  
408 03010205, as defined by the National Watershed Boundary Dataset, are mitigated in-kind within  
409 those subbasins, as close as possible to the impacted site. After July 1, 2002, the provisions of  
410 clause ~~(vi)~~ [\(f\)](#) shall apply only to impacts within subdivisions of the listed subbasins where  
411 overlapping watersheds exist, as determined by the Department of Environmental Quality,  
412 provided the Department [of Environmental Quality](#) has made such a determination by that date.

413 For the purposes of this section, "river watershed" means the Potomac River Basin,  
414 Shenandoah River Basin, James River Basin, Rappahannock River Basin, Roanoke and Yadkin  
415 Rivers Basin, Chowan River Basin (including the Dismal Swamp and Albemarle Sound),  
416 Tennessee River Basin, Big Sandy River Basin, Chesapeake Bay and its Small Coastal Basins,  
417 Atlantic Ocean, York River Basin, and the New River Basin.

418 **Drafting note: For clarity, the reference to the Department is amended to the**  
419 **Department of Environmental Quality, since two Departments are discussed in this**  
420 **section. Technical changes are also made.**

421 § ~~33.1-248~~ [33.2-219](#). Expenditure of funds ~~upon~~ [for](#) interstate bridges and approaches.

422 The Commissioner of Highways may expend from funds now or hereafter available for  
423 construction or maintenance of roads, either alone or in cooperation with public road authorities  
424 of other states, such funds as he may deem necessary for the construction, maintenance,  
425 operation, and repair of interstate highway bridges, tunnels, and approaches forming connecting

426 links between roads now or hereafter in the systems of state highways and public roads of other  
427 states.

428 **Drafting note: Technical changes.**

429 § ~~33.1-249~~ 33.2-220. Maintenance and operation of city and state line bridges.

430 The governing bodies of cities and towns having ~~more populations greater~~ than 3,500  
431 ~~population~~ and the Commissioner of Highways may enter into agreements, upon such terms and  
432 conditions as may be necessary, for the maintenance of public highway bridges or tunnels lying  
433 partly within and partly ~~without outside~~ the incorporated limits of such cities and towns.

434 The Commissioner of Highways may enter into agreements, with other states and the  
435 District of Columbia, upon such terms and conditions as may be necessary, for the maintenance  
436 and operation, including the issuance of permits, of public highway bridges or tunnels lying  
437 partly within and partly ~~without outside~~ the territorial limits of ~~this the~~ Commonwealth.

438 **Drafting note: Technical changes.**

439 § ~~33.1-201~~ 33.2-221. Improving certain private roads and certain town streets and roads.

440 The Commissioner of Highways may, ~~in his discretion~~, upon the request of the ~~board of~~  
441 ~~supervisors or other~~ governing body of any county and at the expense of the owner of the land,  
442 improve private roads giving direct access from the home or other central buildings on the  
443 property along the shortest practical route to the nearest public highway; provided, ~~however~~,  
444 that:

445 ~~(1)~~ 1. The Commissioner of Highways shall in no case undertake any such work until  
446 certification is made by the ~~board of supervisors or other~~ governing body of the county that the  
447 property owner cannot secure the services of a private contractor to perform the work nor then  
448 until the owner has deposited with him a certified check in the amount estimated by the  
449 Commissioner of Highways as the cost of the work;

450 ~~(2)~~ 2. Not more than \$1,000 shall be expended on any one such private project in any  
451 one year; and

452 |           ~~(3)~~3. No work of ordinary maintenance shall be done on any such private road under the  
453 | provisions of this section.

454 |           ~~And~~In addition, the Commissioner of Highways may, upon the request of the council of  
455 | any town having a population of less than 1,500 and at the expense of such town, improve and  
456 | maintain any streets or roads therein not in the ~~State Highway System~~ primary state highway  
457 | system. As to streets and roads in such town, no certification by the board of supervisors or  
458 | deposit shall be necessary.

459 |           Any work done by the Commissioner of Highways pursuant to the provisions of this  
460 | section shall only be done with the equipment and employees of the ~~Commonwealth~~  
461 | Transportation Board.

462 |           **Drafting note: For clarity, references to the State Highway System are amended to**  
463 | **the primary state highway system. Technical changes are also made.**

464 |           § ~~33.1-210.2~~ 33.2-222. Installation and maintenance of ~~certain~~ "children at play" signs in  
465 | counties and towns.

466 |           The governing body of any county or town may enter into an agreement with the  
467 | Commissioner of Highways allowing the county or town to install and maintain, at locations  
468 | specified in such agreement, signs alerting motorists that children may be at play nearby. The  
469 | cost of the signs and their installation shall be paid by the county or town.

470 |           The provisions of this section shall not apply to any county that has withdrawn its roads  
471 | from the secondary system of state highways under the provisions of § 11 of Chapter 415 of the  
472 | Acts of Assembly of 1932 and has not elected to return.

473 |           **Drafting note: Technical changes.**

474 |           § ~~33.1-211~~ 33.2-223. Tramways and railways along or across public highways; appeals.

475 |           A. Whenever any person, firm, or chartered company engaged in mining, manufacturing,  
476 | or lumber getting has acquired the right-of-way for a tramway or railway, except across or upon  
477 | a public highway, and desires to cross such highway; or some part thereof; and if such person,  
478 | firm, or chartered company cannot agree with the Commissioner of Highways, or ~~board of~~

479 ~~supervisors or other~~ governing body of a county if the road ~~be is~~ a county road in a county  
480 ~~where~~ the roads ~~of which~~ are not within the secondary state highway system ~~of state highways~~,  
481 as to the terms and conditions of such crossing, the circuit court of the county in which such  
482 highway may be, may prescribe such regulations for the crossing of such highway as will  
483 protect the public, and when such regulations have been prescribed, such tramway or railway  
484 may be constructed and maintained or, if already constructed, may be maintained in accordance  
485 with such regulations as may be made on the application of the owner of such tramway or  
486 railway or on the motion of the attorney for the Commonwealth after notice to such owner.

487 ~~§ 33.1-212. Appeals.~~

488 B. The Commissioner of Highways or ~~board of supervisors or other~~ governing body or  
489 the applicant or owner of the tramway or railway may appeal from the order of the circuit court  
490 in the manner prescribed for appeals in controversies concerning roads.

491 ~~§ 33.1-213. Private property not to be condemned for such tramways, etc.~~

492 C. Nothing contained in ~~§ 33.1-211~~ this section shall be construed as giving the right to  
493 condemn private property for such tramway or railway; nor shall the rights of any tramway or  
494 railway heretofore lawfully acquired be affected.

495 **Drafting note: The provisions of §§ 33.1-211, 33.1-212, and 33.1-213, all dealing**  
496 **with construction of tramways or railways along or across public highways are**  
497 **consolidated in this single section. Technical changes are also made.**

498 ~~§ 33.1-223.2:8~~ 33.2-224. Highway safety corridor program.

499 The Commissioner of Highways shall establish a highway safety corridor program;  
500 under which a portion of ~~Virginia~~ primary state highway system ~~highways~~ and ~~interstate system~~  
501 highways Interstate System may be designated by the Commissioner of Highways as highway  
502 safety corridors, to address highway safety problems through law enforcement, education, and  
503 safety enhancements. In consultation with the Department of Motor Vehicles and the  
504 Superintendent of State Police, the Commissioner of Highways shall establish criteria for the  
505 designation and evaluation of highway safety corridors, ~~to include~~ including a review of crash

506 data, accident reports, type and volume of vehicle traffic, and engineering and traffic studies.  
507 The Commissioner [of Highways](#) shall hold a public hearing prior to the adoption of the criteria  
508 to be used for designating a highway safety corridor. The Commissioner [of Highways](#) shall hold  
509 a minimum of one public hearing before designating any specific highway corridor as a  
510 highway safety corridor. The public hearing or hearings for a specific corridor shall be held at  
511 least 30 days prior to the designation at a location as close to the proposed corridor as practical.

512 The Department [of Transportation](#) shall erect signs that designate highway safety  
513 corridors and the penalties for violations committed within the designated corridors.

514 **Drafting note: References to highways and highway systems are amended to**  
515 **maintain consistency throughout the title. Technical changes are also made.**

516 § ~~33.1-206~~ [33.2-225](#). Erection and maintenance of newspaper route boxes.

517 The publishers of all newspapers having a circulation in rural sections of the  
518 Commonwealth may erect and maintain suitable newspaper route boxes along and on the rights-  
519 of-way of the public ~~roads and~~ highways throughout such rural sections, in which to deposit  
520 ~~such papers~~ [newspapers](#) for their subscribers. The short name of the newspaper to be deposited  
521 in each such box, but nothing more, may be plainly printed thereon. All such boxes shall be ~~so~~  
522 located ~~as so they do~~ not ~~to~~ interfere with or endanger public travel on ~~such roads and~~ highways.  
523 All such locations shall meet with the approval of the Commissioner of Highways.

524 **Drafting note: Technical changes.**

525 [Article 2.](#)

526 [Department of Transportation.](#)

527 § ~~33.1-13.03:1~~ [33.2-226](#). Responsibilities of the Department of Transportation for  
528 analysis of transportation projects in the Northern Virginia Transportation District.

529 A. The Department of Transportation, in ongoing coordination with the Commonwealth  
530 Transportation Board, the Department of Rail and Public Transportation, and the Northern  
531 Virginia Transportation Authority, shall evaluate all significant transportation projects,  
532 including highway, mass transit, and technology projects, in and near the Northern Virginia

533 Transportation District, to the extent that funds are available for such purpose. The evaluation  
534 shall provide an objective, quantitative rating for each project according to the degree to which  
535 the project is expected to reduce congestion and, to the extent feasible, the degree to which the  
536 project is expected to improve regional mobility in the event of a homeland security emergency.  
537 Such evaluation shall rely on analytical techniques and transportation modeling, including those  
538 that employ computer simulations currently and customarily employed in transportation  
539 planning. The Department of Transportation may rely on the results of transportation modeling  
540 performed by other entities, including the Northern Virginia Transportation Authority and  
541 private entities contracted for this purpose, provided that such modeling is in accordance with  
542 this section. The Department of Transportation shall publicize the quantitative ratings  
543 determined for each project on its website and complete the evaluation at least once every four  
544 years, with interim progress reports provided on the website at least once every six months  
545 starting January 1, 2013.

546 B. In determining the allocation of highway construction funding in the Northern  
547 Virginia Transportation District, the ~~Commonwealth Transportation~~ Board shall, in ongoing  
548 coordination with the Northern Virginia Transportation Authority, give priority to projects that  
549 most effectively reduce congestion in the most congested corridors and intersections. However,  
550 nothing in this section shall limit the ability of the ~~Commonwealth Transportation~~ Board to  
551 consider other criteria, including the performance-based criteria set forth in § ~~15.2-4838~~ 33.2-  
552 XXX.

553 C. Nothing in this section shall be construed or implied to direct funding to the Northern  
554 Virginia Transportation District from another transportation district.

555 D. For purposes of this section, the significant transportation projects to be evaluated  
556 shall comprise at least 25 such projects selected according to priorities determined by the  
557 ~~Commonwealth Transportation~~ Board, in ongoing coordination with the Northern Virginia  
558 Transportation Authority, without regard to the funding source of the project, and may include  
559 ~~but not be limited to:~~

560 1. Projects included in the version of the Financially Constrained Long-Range  
561 Transportation Plan of the National Capital Region Transportation Planning Board in effect  
562 when the evaluation is made, plus additional projects in the Northern Virginia Transportation  
563 Authority's TransAction 2030 Regional Transportation Plan and subsequent updates; and

564 2. Other highway, rail, bus, and technology projects that could make a significant impact  
565 on mobility in the region, ~~to include~~ including additional Potomac River crossings west and  
566 south of Washington, D.C.; extension of the Metro Orange Line, Metro Yellow Line, and Metro  
567 Blue Line; bus rapid transit on Interstate Route 66; vehicle capacity and mass transit  
568 improvements on the U.S. Route 1 corridor; and implementation of relevant portions of the  
569 Statewide Transportation Plan established pursuant to ~~§ 33.1-23.03~~ 33.2-XXX.

570 **Drafting note: In subsection D, "but not be limited to" is removed based on § 1-218,**  
571 **which states: "'Includes' means includes, but not limited to." Technical changes are made.**

572 ~~§ 33.1-15. Reserved.~~

573 **Drafting note: This section is removed because it is carried as reserved in the**  
574 **existing title.**

575 ~~§ 33.1-16~~ 33.2-227. Furnishing information regarding right-of-way transactions.

576 Upon written request to the central office of the Department ~~of Transportation~~, the  
577 Commissioner of Highways shall furnish information regarding right-of-way transactions where  
578 any public funds are expended. Such information shall not be released prior to ~~sixty~~ 60 days  
579 following the transaction to any person not a party directly interested in such transaction.

580 The information ~~referred to herein~~ furnished under this section shall consist of ~~the~~  
581 ~~following~~ ~~(1)~~ (i) the name of the person to whom any sum was paid for land or interest therein;  
582 ~~(2)~~, (ii) the amount of land or interest therein acquired from such person; and ~~(3)~~ (iii) the  
583 amount paid such person for land and the amount paid for damage resulting to the remaining  
584 property of such person.

585 **Drafting note: Technical changes.**

586 ~~§ 33.1-17.~~

587 **Drafting note: Repealed by Acts 1976, c. 746.**

588 § ~~33.1-19.1~~ 33.2-228. Environmental permits for highway projects; timely review.

589 Notwithstanding any other provision of state law or regulation, any state agency, board,  
590 or commission that issues a permit required for a highway construction project pursuant to Title  
591 10.1, 28.2, 29.1, or 62.1 ~~of the Code of Virginia~~ shall, within 15 days of receipt of an individual  
592 permit application, review the application for completeness and either accept the application or  
593 request additional specific information from the Department ~~of Transportation~~. Unless a shorter  
594 period is provided by law, regulation, or agreement, the state agency, board, or commission  
595 shall within 120 days of receipt of a complete application issue the permit, issue the permit with  
596 conditions, deny the permit, or decide whether a public meeting or hearing is required by law. If  
597 a public meeting or hearing is held, it shall be held within 45 days of the decision to conduct  
598 such a proceeding, and a final decision as to the permit shall be made within 90 days of  
599 completion of the public meeting or hearing. For coverage under general permits issued  
600 pursuant to Title 10.1, 28.2, 29.1, or 62.1, the state agency, board, or commission that issues  
601 such permits shall, within 10 business days of receipt of an application from the Department ~~of~~  
602 ~~Transportation~~ for ~~a road~~ or highway construction project, review the application for  
603 completeness and either accept the application or request additional specific information from  
604 the Department ~~of Transportation~~. Coverage under the general permit shall be approved,  
605 approved with conditions, or denied within 30 business days of receipt of a complete  
606 application.

607 **Drafting note: Technical changes.**

608 § ~~33.1-20~~.

609 **Drafting note: Repealed by Acts 1979, c. 607.**

610 § ~~33.1-21~~.

611 **Drafting note: Repealed by Acts 2011, cc. 104 and 164, cl. 3.**

612 § ~~33.1-223.2:4~~ 33.2-229. Department to maintain drainage easements.

613 Whenever, in connection with or as a precondition to the construction or reconstruction  
614 of any highway, the Department shall have acquired any permanent drainage easement, the  
615 Department shall, until such time as such easement shall have been terminated, perform repairs  
616 required to protect the roadway and to ensure the proper function of the easement within the  
617 right-of-way and within the boundaries of such easement.

618 **Drafting note: Technical changes.**

619 § ~~33.1-189.1~~ 33.2-230. Specifications in purchasing lubricating motor oil.

620 A. Standard specifications adopted for lubricating motor oil for competitive bidding  
621 contracts to be let by the Department ~~of Transportation~~ shall be prescribed so as to include re-  
622 refined or recycled lubricating motor oil. Specifications adopted for circumstances or equipment  
623 ~~which that~~ require specialized treatment or products may be excluded.

624 B. The Department shall compile and publish a list of business entities ~~which that~~  
625 commercially distribute re-refined or recycled lubricating motor oil ~~which that~~ complies with  
626 the standard specifications adopted by the Department pursuant to the provisions of this section.  
627 The Department shall make the list available to local governing bodies upon request.

628 **Drafting note: Technical changes.**

629 § ~~33.1-190.1~~ 33.2-231. Value engineering required in certain projects.

630 The Department shall employ value engineering in conjunction with any project on any  
631 highway system using criteria established by the Department ~~and,~~ including ~~but not limited to~~  
632 all projects costing more than \$5 million. For the purposes of this section, "value engineering"  
633 ~~shall mean means~~ a systematic process of review and analysis of an engineering project by a  
634 team of persons not originally involved in the project. Such team may offer suggestions ~~which~~  
635 ~~that~~ would improve project quality and reduce total project cost, ranging from combination or  
636 elimination of inefficient or expensive parts or steps in the original proposal to total redesign of  
637 the project using different technologies, materials, or methods.

638 After a review, the Commissioner of Highways may waive the requirements of this  
639 section for any project for compelling reasons. Any such waiver shall be in writing, state the  
640 reasons for the waiver, and apply only to a single project.

641 **Drafting note: Here and in other proposed sections, "but not limited to" or similar**  
642 **language is removed when using the term "including" based on § 1-218, which states:**  
643 **"'Includes' means includes, but not limited to." Technical changes are also made.**

644 § ~~33.1-200.1~~ 33.2-232. Removal of snow from driveways of volunteer fire departments  
645 and rescue squads.

646 ~~The On the roads under the jurisdiction of the Department, the Department of~~  
647 ~~Transportation~~ shall remove snow from the driveways and entrances ~~on the roads under the~~  
648 ~~jurisdiction of the Department of Transportation~~ of volunteer fire departments and volunteer  
649 rescue squads when the chief of any individual volunteer fire department, or the head of any  
650 individual volunteer rescue squad, makes a written request for such snow removal service,  
651 provided that such service shall only be performed when such service can be performed during  
652 the normal course of snow removal activities of the Department ~~of Transportation~~ without  
653 interfering with, or otherwise inconveniencing, such snow removal activities; ~~provided further,~~  
654 ~~that such.~~ Such service shall not extend to any parking lots adjacent to such driveways and  
655 entranceways not normally used by the volunteer fire department or volunteer rescue squad  
656 vehicles as their direct driveway or entrance.

657 **Drafting note: Technical changes.**

658 § ~~33.1-223.2:18~~ 33.2-XXX. School bus ~~stops stop signs or other~~ indicators.

659 The Department shall allow any local school board to install signs or other devices to  
660 indicate school bus stops. ~~Installation of school bus stop signs or other devices on any state-~~  
661 ~~maintained highway shall be, provided the installation is~~ approved by the Department prior to  
662 installation. ~~This is not a requirement~~ No local school board shall be required to install signs at  
663 all school bus stops. Maintenance, repair, and replacement of school bus stop signs shall be the  
664 responsibility of the local school board. The Department, in conformance with the Department's

665 current policies for emergency snow removal operations, shall use its best efforts to ensure that  
666 signed school bus stop areas shall not be obstructed by snow removal operations. Installation of  
667 school bus stop signs shall not designate the area as school property.

668 **Drafting note: Technical changes.**

669 § ~~33.1-210~~ 33.2-233. Livestock on right-of-way of any system of state highways.

670 No person, firm, or corporation shall pasture or graze, or cause to be pastured or grazed,  
671 or otherwise permit to be on any right-of-way of any ~~road~~ highway in ~~any system of state~~  
672 highways either the primary or secondary state highway systems, except as ~~herein~~ otherwise  
673 provided in this section, any livestock, unless such animal or animals be securely tied or held by  
674 chain or rope so as to prevent such animal from getting on the traveled portion of the highway;  
675 provided, ~~however~~, that this section shall not apply when such livestock are being driven along  
676 such ~~road or right-of-way~~ highway while under the control of a responsible drover or drovers.

677 ~~However, nothing~~ Nothing in this section shall prevent the owners of abutting parcels of  
678 land from grazing livestock unsecured by chain or rope on secondary roads ~~which that~~ (i) have  
679 been taken into the system as gated roads and (ii) carry fewer than ~~fifty~~ 50 vehicles per day.

680 On gated roads carrying ~~fifty~~ 50 or more vehicles per day, the Department ~~of~~  
681 Transportation shall, upon the request of the local governing body and upon the recordation of a  
682 deed of gift or donation by such landowner of not less than ~~forty-foot~~ a 40-foot right-of-way,  
683 reimburse abutting landowners a sum equal to ~~one dollar~~ \$1 per foot of fencing ~~which that~~ must  
684 be installed to keep cattle from entering the right-of-way from such abutting land. Where such  
685 fencing separates pasture land from a water source used by the owner of such pasture land to  
686 water his livestock, the Department ~~of~~ Transportation shall construct or have constructed a  
687 means of access by which stock may reach the water source from the pasture land. Moneys for  
688 such fencing and construction of access to water shall be taken from highway construction  
689 funds. For purposes of this section, a "gated" road is a road on which, prior to July 1, 1986,  
690 abutting landowners have maintained a gate or cattle guard.

691 Any person, firm, or corporation who ~~shall violate~~ violates any of the provisions of this  
692 article shall be fined not less than ~~ten dollars~~ \$10 nor more than ~~fifty dollars~~ \$50 for such  
693 offense.

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

696 **Drafting note: For clarity, references to "any system of state highways" are**  
697 **amended to reflect the two systems of state highways, both the primary and secondary**  
698 **system, in order to not conflict with the definition of "systems of state highways" in § 1-**  
699 **251 and to maintain consistency throughout this title. Technical changes are also made.**

700 ~~§ 33.1-210.1.~~

701 **Drafting note: Repealed by Acts 1991, c. 251.**

702 ~~§ 33.1-223.2:9~~ 33.2-235. Comprehensive roadside management program.

703 The Department shall promulgate regulations for a comprehensive roadside management  
704 program. Such program shall include, ~~but not be limited to,~~ opportunities for participation by  
705 individuals, communities, and local governments and shall address items ~~to include,~~ including  
706 safety, landscape materials, services, funding, recognition, and appropriate signing.

707 **Drafting note: Technical changes are made, including removing the phrase "but**  
708 **not be limited to" based on § 1-218, which states: "'Includes' means includes, but not**  
709 **limited to."**

710 ~~§ 33.1-223.2~~ 33.2-236. Intermittent closing of ~~roads~~ highways subject to flooding; costs;  
711 application for permit; notice; issuance of permit.

712 A. Upon application of the board of directors of any soil and water conservation district  
713 and of the board of supervisors of the county wherein the ~~road~~ highway is located, the  
714 Department ~~of Transportation~~ is ~~hereby~~ authorized to permit the intermittent closing of any ~~road~~  
715 highway located within the boundaries of such district and county whenever in its judgment it is  
716 necessary to do so and when the ~~road~~ highway will be intermittently subject to inundation by  
717 floodwaters retained by an approved watershed retention structure. All costs associated with

718 such closing shall be borne by the board of supervisors of the county, including the costs of  
719 furnishing, erecting, and removing the necessary signs, barricades, signals, and lights to  
720 safeguard and direct traffic.

721 B. Before any permit may be issued for the temporary inundation and closing of such a  
722 ~~road highway~~, an application for such permit shall be made to the Department ~~of Transportation~~  
723 by the board of directors of the soil and water conservation district and the board of supervisors  
724 of the county wherein the ~~road highway~~ is located. The application shall specify the ~~road~~  
725 ~~highway~~ involved and shall request that a permit be granted to the county to allow the  
726 intermittent closing of the ~~road highway~~.

727 C. Before making such application, the board of supervisors of the county wherein such  
728 ~~road highway~~ is located shall give notice of the proposed action by publication once each week  
729 for two consecutive weeks in a newspaper of general circulation in the county, and such notice  
730 shall contain a description of the places of beginning and the places of ending of such  
731 intermittent closing. In addition to such publication, the board of supervisors of such county  
732 shall give notice to all public utilities having facilities located within the rights-of-way of any  
733 ~~road highway~~ being closed by mailing a copy of such notice to the office of each such public  
734 utility located within the county, or if no office is located within the county, then to the office of  
735 such utility located nearest to the county. Furthermore, no such application shall be accepted by  
736 the Department ~~of Transportation which that~~ does not certify compliance by the applicants with  
737 the ~~aforsaid~~ requirements of publication and notice in the manner prescribed ~~herein in this~~  
738 ~~section~~. All costs associated with the application procedure and notice to the public and to  
739 public utilities shall be borne by the board of supervisors of the county.

740 D. Not sooner than ~~thirty 30~~ days after the last publication and not sooner than ~~thirty 30~~  
741 days after the mailing of such notice, the Department ~~of Transportation~~ may issue the permit  
742 with respect to such ~~road highway~~. Nothing herein contained shall require the Department to  
743 issue such a permit when the Department, in its sole discretion, does not consider such

744 intermittent closing of ~~roads~~ highways to be in the best interest of fulfilling the Department's  
745 duties to the traveling public.

746 **Drafting note: References to "roads" are amended to "highways." Technical**  
747 **changes are also made.**

748 § ~~33.1-223.2:7~~ 33.2-237. Family restrooms.

749 The Department ~~of Transportation~~ shall provide family restrooms at all rest areas along  
750 interstate Interstate System highways in the Commonwealth. All such family restrooms shall be  
751 constructed in accordance with federal law. The provisions of this section shall apply only to  
752 rest stops constructed on or after July 1, 2003.

753 **Drafting note: The reference to "interstate highways" is amended to "Interstate**  
754 **System highways" to maintain consistency throughout the title. A technical change is also**  
755 **made.**

756 § ~~33.1-223.2:15~~ 33.2-238. Use of certain federal "transportation enhancement" grants for  
757 highway rest area improvements.

758 The ~~Commonwealth Transportation~~ Board shall, in accordance with federal law and  
759 guidelines for projects qualifying as "transportation enhancements" as defined in 23 U.S.C. §  
760 101(a)(35), take such measures as may appear necessary or convenient to consider projects that  
761 will (i) address improvements to highway rest areas and welcome centers and (ii) accommodate  
762 anticipated quadricentennial tourism in Virginia.

763 **Drafting note: An outdated reference to "anticipated quadricentennial tourism" is**  
764 **changed to "tourism." As of October 1, 2012, federal "transportation enhancement"**  
765 **grants will not be proper terminology, so this language may be updated before the final**  
766 **report of Title 33.2 is made to the Code Commission. Technical changes are also made.**

767 § ~~33.1-223.2:22~~ 33.2-239. Contractor performance bonds for locally administered  
768 transportation improvement projects.

769 Whenever any ~~county, city, or town~~ locality undertakes administration of a  
770 transportation improvement project and obtains, in connection therewith, contractor

771 performance bonds that include the ~~Virginia Department of Transportation~~ as a dual obligee, the  
772 amount of such bonds shall be no greater than would have been required had the Department not  
773 been included as a dual obligee. The surety's obligation to the Department shall be no greater  
774 than its obligation to the ~~county, city, or town~~ locality administering the project, and the amount  
775 of the bond is the limit of the surety's obligation to either or both obligees.

776 **Drafting note: Technical changes.**

777 § ~~33.1-223.2:16~~ 33.2-240. Localities may use design-build contracts.

778 ~~Counties, cities, and towns~~ Localities may award contracts for the construction of  
779 transportation projects on a design-build basis. These contracts may be awarded after a written  
780 determination is made by the chief executive officer of the ~~county, city, or town~~ locality that  
781 delivery of the projects must be expedited and that it is not in the public interest to comply with  
782 the design and construction contracting procedures normally followed. These contracts shall be  
783 of such size and scope to encourage maximum competition and participation by qualified  
784 contractors. Such determination shall be retained for public inspection in the official records of  
785 the ~~county, city, or town~~ locality and shall include a description of the nature and scope of the  
786 project and the reasons for the determination that awarding a design-build contract will best  
787 serve the public interest. If state or federal transportation funds are used for the contract, then  
788 the ~~county, city, or town~~ locality shall comply with the provisions of § ~~33.1-12, 33.2-XXX~~ and  
789 shall request from the Department the authority to administer the project in accordance with  
790 pertinent state or federal requirements.

791 **Drafting note: Technical changes.**

792 § ~~33.1-223.2:27~~ 33.2-241. Department to provide for training of certain local employees.

793 The Department ~~of Transportation~~ shall provide for the training and certification of local  
794 governments in order that such local governments are capable of administering local  
795 maintenance and construction projects that involve the secondary or urban highway system.  
796 Such training and certification shall enable such local governments to carry out locally

797 administered projects in compliance with federal and state law and regulations with minimal  
798 oversight by Department personnel.

799 **Drafting note: Technical change.**

800 § ~~33.1-223.2:10~~ 33.2-242. Department to maintain property acquired for construction of  
801 transportation projects.

802 Subject to requirements of federal law or regulations and prior to the initiation of project  
803 construction, the Department shall mow the grass and remove weeds and debris on property  
804 acquired for the construction of a transportation project by the Department. Such activities shall  
805 be performed in accordance with the same schedules used for these activities on other ~~right-of-~~  
806 way rights-of-way maintained by the Department in the same locality. At the written request of  
807 the local governing body or a locality, the Department shall provide additional services on the  
808 property acquired for the construction of a transportation project, including removal of  
809 abandoned vehicles. Such additional services shall be funded from the construction allocations  
810 to the project.

811 **Drafting note: Technical changes.**

812 § ~~33.1-223.2:11~~ 33.2-243. Location of landfill gas pipelines in highway right-of-way;  
813 Department to provide notice to counties.

814 Whenever the Department grants its permission for the construction, installation,  
815 location, or placement of a landfill gas pipeline within any highway right-of-way, notice ~~thereof~~  
816 shall be provided by the Department to every county through which such pipeline or any portion  
817 thereof will pass.

818 For the purposes of this section, "landfill gas pipeline" means those facilities exempted  
819 from the definition of public utility in subdivisions (b) (6), ~~(b)~~ (7), and ~~(b)~~ (8) of § 56-265.1.

820 **Drafting note: Technical changes.**

821 § ~~33.1-223.2:14~~ 33.2-244. Use of steel plates in connection with highway repairs.

822 Any person using steel plates in connection with a temporary or permanent repair to the  
823 roadway of any highway shall follow the standards of the ~~Virginia~~ Department ~~of~~

824 ~~Transportation~~ regarding warnings thereof and the marking of such plates. The provisions of  
825 this section shall not apply to any portion of a roadway that is closed to vehicular traffic.

826 **Drafting note: Technical changes.**

827 § ~~33.1-223.2:19~~ 33.2-245. Application and installation of traffic control measures.

828 Nothing in this title shall be construed to prevent the application and installation of  
829 traffic control measures to reduce the negative effects of traffic through residential areas on any  
830 component of the secondary highway system that meets the definition of "residence district"  
831 ~~contained~~ in § 46.2-100, even if such component also provides access to a "business district" as  
832 defined in the same section. Installation of traffic control measures on any state-maintained  
833 highway shall be approved by the Department prior to installation.

834 § ~~33.1-223.2:20~~. ~~Application and installation of traffic control measures.~~

835 ~~Nothing Furthermore, nothing~~ in this title shall be construed to prevent the acceptance  
836 by the Department ~~of Transportation~~ of private financing for the application and installation of  
837 traffic control measures if and when such measures meet the Department's standards.

838 **Drafting note: This proposed section combines two very similar sections, both**  
839 **related to traffic control measures and make technical changes.**

840 § ~~33.1-223.2:21~~ 33.2-246. Noise abatement practices and technologies.

841 A. Whenever the ~~Commonwealth Transportation~~ Board or the Department plan for or  
842 undertake any highway construction or improvement project and such project includes or may  
843 include the requirement for the mitigation of traffic noise impacts, first consideration should be  
844 given to the use of noise reducing design and low noise pavement materials and techniques in  
845 lieu of construction of noise walls or sound barriers. Vegetative screening, such as the planting  
846 of appropriate conifers, in such a design would be utilized to act as a visual screen if visual  
847 screening is required.

848 B. The Department shall expedite the development of quiet pavement technology such  
849 that applicable contract solicitations for paving shall include specifications for quiet pavement  
850 technology and other sound mitigation alternatives in any case in which sound mitigation is a

851 consideration. To that end, the Department shall construct demonstration projects sufficient in  
852 number and scope to assess applicable technologies. The assessment shall include evaluation of  
853 the functionality and public safety of these technologies in Virginia's climate and shall be  
854 evaluated over two full winters. The Department shall provide an interim report to the Governor  
855 and the General Assembly by June 30, 2012, and a final report by June 30, 2013. The report  
856 shall include results of demonstration projects in Virginia, results of the use of quiet pavement  
857 in other states, a plan for routine implementation of quiet pavement, and any safety, cost, or  
858 performance issues that have been identified by the demonstration projects.

859 C. The governing body of any ~~county, city, or town~~ locality, at its own expense, may  
860 evaluate noise from highways it may designate for analysis. Such evaluation shall be accepted  
861 and relied upon by the Department if such evaluation is prepared in accordance with and  
862 complies with applicable federal law, regulations, and requirements, as well as guidelines and  
863 policies issued by the ~~Commonwealth Transportation~~ Board, relating to noise abatement and  
864 evaluation. This provision shall not apply to projects for which the ~~Virginia Department of~~  
865 Transportation is required to perform a noise analysis.

866 **Drafting note: Technical changes.**

867 Article ~~1.1~~ 3.

868 Allocation of Highway Funds.

869 **Drafting note: Existing Article 1.1 of Chapter 1 is relocated to Chapter 2 as Article**  
870 **3 and combines several sections concerning allocation of highway funds.**

871 § ~~33.1-23.01~~ 33.2-247. Definition of ~~the term~~ "allocation."

872 For the purposes of this article, ~~the term~~ "allocation" ~~shall mean~~ means a commitment to  
873 expend funds available for construction during each fiscal year. Funds ~~which that~~ cannot be  
874 expended as allocated within each fiscal year shall be identified as part of future commitments,  
875 and the reason for the failure to spend allocations shall be specifically included in the annual  
876 construction improvement program.

877 **Drafting note: Technical changes.**

878 § ~~33.1-23.02~~ 33.2-248. ~~Definition of the terms "maintenance" and "asset management."~~  
879 Department to develop asset management practices; Commissioner of Highways to report to  
880 Board on maintenance.

881 A. ~~For the purpose of this title, unless otherwise explicitly provided, the term~~  
882 ~~"maintenance" shall include (i) ordinary maintenance, (ii) maintenance replacement, (iii)~~  
883 ~~operations that include, but are not limited to, traffic signal synchronization, incident~~  
884 ~~management, other intelligent transportation system functions, and (iv) any other categories of~~  
885 ~~maintenance which may be designated by the Commissioner.~~

886 B. 1. ~~For the purposes of this title, unless otherwise explicitly provided, the term "asset~~  
887 ~~management" shall mean a systematic process of operating and maintaining the state system of~~  
888 ~~highways by combining engineering practices and analysis with sound business practices and~~  
889 ~~economic theory to achieve cost-effective outcomes.~~

890 2. ~~The~~ Department shall develop asset management practices in the operation and  
891 maintenance of the state system of highways.

892 3. ~~B.~~ The Commissioner of Highways shall advise the Board, on or before June 30 of  
893 even-numbered years, of performance targets and outcomes that are expected to be achieved,  
894 based ~~upon~~ on the funding identified for maintenance, over the biennium beginning July 1 of  
895 that year. In addition, not later than September 30 of even-numbered years, the Commissioner of  
896 Highways shall advise the Board on the Department's accomplishments relative to the expected  
897 outcomes and budget expenditures for the biennium ending June 30 of that year and also advise  
898 the Board as to the methodology used to determine maintenance needs and the justification as to  
899 the maintenance funding by source.

900 **Drafting note: The definitions of asset management and maintenance are relocated**  
901 **to the proposed title-wide definitions section, § 33.2-100. Technical changes are also made.**

902 § ~~33.1-23.03~~ 33.2-249. Board to develop and update Statewide Transportation Plan.

903 A. The ~~Commonwealth Transportation~~ Board shall, with the assistance of the Office of  
904 Intermodal Planning and Investment, conduct a comprehensive review of statewide

905 transportation needs in a Statewide Transportation Plan setting forth assessment of capacity  
906 needs for all corridors of statewide significance, regional networks, and improvements to  
907 promote urban development areas established pursuant to § 15.2-2223.1. The assessment shall  
908 consider all modes of transportation. Such corridors shall be planned to include multimodal  
909 transportation improvements, and the plan shall consider corridor location in planning for any  
910 major transportation infrastructure, including environmental impacts and the comprehensive  
911 land use plan of the locality in which the corridor is planned. In the designation of such  
912 corridors, the ~~Commonwealth Transportation~~ Board shall not be constrained by local, district,  
913 regional, or modal plans.

914 This Statewide Transportation Plan shall be updated as needed, but no less than once  
915 every four years. The plan shall promote economic development and all transportation modes,  
916 intermodal connectivity, environmental quality, accessibility for people and freight, and  
917 transportation safety.

918 B. The Statewide Transportation Plan shall establish goals, objectives, and priorities that  
919 cover at least a 20-year planning horizon, in accordance with federal transportation planning  
920 requirements. The plan shall include quantifiable measures and achievable goals relating to, but  
921 not limited to, congestion reduction and safety, transit and high-occupancy vehicle facility use,  
922 job-to-housing ratios, job and housing access to transit and pedestrian facilities, air quality,  
923 movement of freight by rail, and per capita vehicle miles traveled. The Board shall consider  
924 such goals in evaluating and selecting transportation improvement projects for inclusion in the  
925 Six-Year Improvement Program pursuant to § ~~33.1-12~~ 33.2-XXX.

926 C. The plan shall incorporate the ~~approved long-range plans~~ measures and goals of the  
927 approved long-range plans developed by the applicable regional organizations. Each such plan  
928 shall be summarized in a public document and made available to the general public upon  
929 presentation to the Governor and General Assembly.

930 D. It is the intent of the General Assembly that this plan assess transportation needs and  
931 assign priorities to projects on a statewide basis, avoiding the production of a plan ~~which~~ that is  
932 an aggregation of local, district, regional, or modal plans.

933 **Drafting note: Technical changes.**

934 § ~~33.1-23.03:001~~ 33.2-250. Board to develop and update Statewide Pedestrian Policy.

935 A. The ~~Commonwealth Transportation~~ Board shall ~~prepare~~ develop and update as  
936 needed a Statewide Pedestrian Policy. The Board shall:

937 1. Provide opportunities for receipt of comments, suggestions, and information from  
938 local governments, business and civic organizations, and other concerned parties;

939 2. Identify and evaluate needs at statewide, regional, and local levels for additional  
940 facilities required to promote pedestrian access to schools, places of employment and recreation,  
941 and major activity centers;

942 3. Consider and evaluate potential ways of meeting these needs; and

943 4. Set forth conclusions as to goals, objectives, and strategies to meet these needs in a  
944 safety-conscious manner.

945 B. The Board shall coordinate the development of the Statewide Pedestrian Policy with  
946 that of the Statewide Transportation Plan provided for in § ~~33.1-23.03~~ 33.2-XXX and cover the  
947 same ~~twenty-year~~ 20-year planning horizon. The Statewide Pedestrian Policy shall be  
948 summarized in a public document and made available to the general public upon presentation to  
949 the Governor and General Assembly, either in combination with the Statewide Transportation  
950 Plan or as a separate document.

951 **Drafting note: Technical changes.**

952 § ~~33.1-23.03:002~~ 33.2-251. Goals for addressing transportation needs of populations  
953 with limited mobility.

954 The ~~Commonwealth Transportation~~ Board, in cooperation with other local, regional, or  
955 statewide agencies and entities vested with transportation planning responsibilities, shall  
956 establish specific mobility goals for addressing the transportation needs of populations with

957 limited mobility, including, ~~but not necessarily limited to~~, the elderly, persons with disabilities  
958 that limit their mobility, persons not served by any form of mass transit, and those who, for  
959 whatever reasons, cannot afford motor vehicles or cannot be licensed to drive them. Such goals,  
960 once established, shall be considered in the development and implementation of the Statewide  
961 Transportation Plan required by § ~~33.1-23.03~~ 33.2-XXX.

962 **Drafting note: The phrase "but not necessarily limited to" is removed based on § 1-**  
963 **218, which states: "'Includes' means includes, but not limited to." Technical changes are**  
964 **also made.**

965 § ~~33.1-23.03:1~~ 33.2-252. Transportation Trust Fund.

966 There is hereby created in the Department of the Treasury a special nonreverting fund to  
967 be known as the Transportation Trust Fund, consisting of:

968 1. Funds remaining for highway construction purposes, among the several highway  
969 systems pursuant to § ~~33.1-23.1~~ 33.2-XXX.

970 2. ~~[Repealed.]~~

971 ~~3-~~The additional revenues generated by enactments of Chapters 11, 12 and 15 of the  
972 1986 Acts of Assembly, ~~1986~~ Special Session I, and designated for this fund.

973 ~~4-3.~~ Tolls and other revenues derived from the projects financed or refinanced pursuant  
974 to this title ~~which that~~ are payable into the state treasury and tolls and other revenues derived  
975 from other transportation projects, which may include upon the request of the applicable  
976 appointed local governing body, as soon as their obligations have been satisfied, such tolls and  
977 revenue derived for transportation projects pursuant to § ~~33.1-253~~ 33.2-XXX (Chesapeake Bay  
978 Bridge and Tunnel District) and to the Richmond Metropolitan Authority, established in ~~Chapter~~  
979 70 (~~§ 15.2-7000 et seq.~~) of Title 15.2 33.2-XXX, or if the appointed local governing body  
980 requests refunding or advanced refunding by the Board and such refunding or advanced  
981 refunding is approved by the General Assembly. Such funds shall be held in separate  
982 subaccounts of the Transportation Trust Fund to the extent required by law or the Board.

983 ~~5. Tolls and other revenues derived from the Richmond-Petersburg Turnpike, provided~~  
984 ~~that such funds shall be held in a separate subaccount of the Transportation Trust Fund and~~  
985 ~~allocated as set forth in Chapter 574 of the Acts of Assembly of 1983 until expiration of that~~  
986 ~~Act.~~

987 ~~6.4.~~ Such other funds as may be appropriated by the General Assembly from time to  
988 time; and designated for this fund.

989 ~~7.5.~~ All interest, dividends, and appreciation ~~which that~~ may accrue to the  
990 Transportation Trust Fund and the Highway Maintenance and Construction Fund, except that  
991 interest on funds becoming part of the Transportation Trust Fund under subdivision 1 and the  
992 Highway Maintenance and Construction Fund shall not become part of the Transportation Trust  
993 Fund until July 1, 1988.

994 ~~8.6.~~ All amounts required by contract to be paid over to the Transportation Trust Fund.

995 ~~9.7.~~ Concession payments paid to the Commonwealth by a private entity pursuant to the  
996 Public-Private Transportation Act of 1995 (§ ~~56-556~~ 33.2-XXX et seq.).

997 8. When investments are made in accordance with this section, no Board member or  
998 employee thereof or treasury official shall be personally liable for any loss therefrom in the  
999 absence of negligence, malfeasance, misfeasance, or nonfeasance.

1000 **Drafting note: Subdivision 5 is stricken since Chapter 574 of the Acts of Assembly**  
1001 **of 1983 has expired. Existing § 33.1-23.03:7, Liability exemption of officers and employees,**  
1002 **is incorporated in this section as subdivision 8 because it was previously a part of this**  
1003 **section.**

1004 ~~§ 33.1-23.03:7. Liability exemption of officers and employees.~~

1005 ~~When investments are made in accordance with this section, no Board member or~~  
1006 ~~employee thereof, or treasury official shall be personally liable for any loss therefrom in the~~  
1007 ~~absence of negligence, malfeasance, misfeasance, or nonfeasance.~~

1008 **Drafting note: Repeal. This section is moved into proposed § 33.2-XXX, the**  
1009 **Transportation Trust Fund, which it was previously a part of.**

1010 § ~~33.1-23.03:2~~ 33.2-253. Commonwealth Space Flight Fund, Commonwealth Port Fund,  
1011 Commonwealth Airport Fund and Commonwealth Mass Transit Fund.

1012 Of the funds becoming part of the Transportation Trust Fund pursuant to subdivision ~~3~~ 2  
1013 of § ~~33.1-23.03:1~~ 33.2-XXX, an aggregate of 4.2 percent shall be set aside as the  
1014 Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the Commonwealth  
1015 Airport Fund; and an aggregate of 14.7 percent shall be set aside as the Commonwealth Mass  
1016 Transit Fund. Beginning with the Commonwealth's 2012-2013 fiscal year through the  
1017 Commonwealth's 2016-2017 fiscal year, each fiscal year from the funds becoming part of the  
1018 Transportation Trust Fund pursuant to subdivision ~~3~~ 2 of § ~~33.1-23.03:1~~ 33.2-XXX the  
1019 Comptroller shall transfer \$9.5 million to the Commonwealth Space Flight Fund. The remaining  
1020 funds deposited into or held in the Transportation Trust Fund pursuant to subdivision ~~3~~ 2 of §  
1021 ~~33.1-23.03:1~~ 33.2-XXX, together with funds deposited pursuant to subdivisions 1 and ~~6~~ 4 of §  
1022 ~~33.1-23.03:1~~ 33.2-XXX, shall be expended for capital improvements including construction,  
1023 reconstruction, maintenance, and improvements of highways according to the provisions of  
1024 subsection XXX of § ~~33.1-23.1-B~~ 33.2-XXX or to secure bonds issued for such purposes, as  
1025 provided by the Board and the General Assembly.

1026 **Drafting note: Technical changes.**

1027 ~~§ 33.1-23.03:3.~~

1028 **Drafting note: Repealed by Acts 1988, cc. 844, 903.**

1029 § ~~33.1-23.03:4~~ 33.2-254. Toll Facilities Revolving Account.

1030 A. All definitions of terms in this section shall be as provided in the Public-Private  
1031 Transportation Act of 1995 (§ 33.2-XXX et seq.).

1032 B. Subject to any obligations to existing bondholders, but notwithstanding §§ 2.2-1806  
1033 and 58.1-13, funds deposited into the Transportation Trust Fund pursuant to subdivision ~~4~~ XXX  
1034 of § ~~33.1-23.03:1~~ 33.2-XXX shall be held in a separate subaccount to be designated the "Toll  
1035 Facilities Revolving Account," hereinafter referred to as "the Account," together with all  
1036 interest, dividends, and appreciation ~~which that~~ accrue to the Transportation Trust Fund and

1037 | ~~which that~~ are not otherwise specifically directed by law or reserved by the Board in the  
1038 | resolution authorizing issuance of bonds to finance toll facilities. In addition, any funds received  
1039 | from the federal government or any agency or instrumentality thereof that, pursuant to federal  
1040 | law, may be made available, as loans or otherwise, to private persons or entities for  
1041 | transportation purposes, hereinafter referred to as "federal funds," shall be deposited in a  
1042 | segregated subaccount within the Account. Payments received with respect to any loan made  
1043 | from such segregated subaccount pursuant to subdivision ~~D 2 of subsection B of this section~~  
1044 | shall also be deposited into such segregated subaccount in the Account.

1045 | ~~A1. C.~~ User fees collected in excess of the annual debt service, operations, and  
1046 | maintenance expenses, and necessary administrative costs including any obligations to the Toll  
1047 | Facilities Revolving Account and any other obligations for qualifying facilities with respect to  
1048 | which an agency of the Commonwealth is the ~~Responsible Public Entity under the Public-~~  
1049 | ~~Private Transportation Act of 1995 (§ 56-556 et seq.)~~ responsible public entity shall be  
1050 | deposited and held in the "Regional Toll Facilities Revolving Subaccount," hereinafter referred  
1051 | to as the "Regional Account," together with all interest, dividends, and appreciation for use  
1052 | within the metropolitan planning organization region within which the facility exists. Payments  
1053 | received with respect to any loan made from such Regional Account pursuant to subdivision D 3  
1054 | ~~of subsection B of this section~~ shall also be deposited into the Regional Account.

1055 | ~~B. D.~~ The Board may make allocations upon such terms and subject to such conditions  
1056 | as the Board deems appropriate, from the following funds for the following purposes:

1057 | 1. From any funds in the Account, exclusive of those in the Regional Account, to pay or  
1058 | finance all or part of the costs, including the cost of planning, operation, maintenance, and  
1059 | improvements incurred in connection with the acquisition and construction of projects financed  
1060 | in whole or in part as toll facilities or to refinance existing toll facilities, provided that any such  
1061 | funds allocated from the Account for a planned or operating toll facility shall be considered as  
1062 | an advance of funding for which the Account shall be reimbursed;

1063 2. From funds in the segregated subaccount in the Account into which federal funds are  
1064 deposited in conjunction with the Public-Private Transportation Act of 1995 (§ ~~56-556~~ 33.2-  
1065 XXX et seq.) and pursuant to the terms of a comprehensive agreement between a responsible  
1066 public entity and a private operator as provided for in that act:

1067 a. To make a loan to such operator to pay any cost of a qualifying transportation facility,  
1068 provided that: (i) the operator's return on its investment is limited to a reasonable rate and (ii)  
1069 such loan is limited to a reasonable term; or

1070 b. To pay the Commonwealth's or its agency's portion of costs incurred or to be incurred  
1071 in accordance with a comprehensive agreement with respect to a transportation facility.

1072 ~~All definitions of terms shall be as provided in the Public-Private Transportation Act of~~  
1073 ~~1995;~~

1074 3. From funds in the Regional Account:

1075 a. To pay or finance all or part of the costs, including the cost of planning, operation,  
1076 maintenance, and improvements incurred in connection with the acquisition and construction of  
1077 projects financed in whole or in part as toll facilities or to refinance existing toll facilities,  
1078 provided that (i) allocations from the Regional Account shall be limited to projects located  
1079 within the same metropolitan planning organization region as the facility ~~which~~ that generated  
1080 the excess revenue and (ii) any such funds allocated from the Regional Account for a planned or  
1081 operating toll facility shall be considered as an advance of funding for which the Regional  
1082 Account shall be reimbursed; or

1083 b. To pay the Commonwealth's, its agency's, or its political subdivision's costs incurred  
1084 or to be incurred in accordance with a comprehensive agreement with respect to a transportation  
1085 facility within the same metropolitan planning organization region as the facility which  
1086 generated the excess revenue. ~~All definitions of terms shall be as provided in the Public-Private~~  
1087 ~~Transportation Act of 1995;~~ and

1088 4. From any funds in the Account or Regional Account, to pay the Board's reasonable  
1089 costs and expenses incurred in (i) the administration and management of the Account, (ii) its

1090 program of financing or refinancing costs of toll facilities, and (iii) the making of loans and  
1091 paying of costs described in subdivisions 1 and 2 ~~of this subsection~~.

1092 ~~C. E.~~ The Board may transfer from the Account to the Transportation Trust Fund for  
1093 allocation pursuant to subsection ~~B. X~~ of § ~~33.1-23.1~~ 33.2-XXX any interest revenues and,  
1094 subject to applicable federal limitations, federal funds not committed by the Board to the  
1095 purposes provided for in subsection ~~B of this section~~ D.

1096 ~~D. F.~~ The provisions of this section shall be liberally construed to the end that its  
1097 beneficial purposes may be effectuated. Insofar as this provision is inconsistent with the  
1098 provisions of any other general, special, or local law, this provision shall be controlling.

1099 ~~E. G.~~ If any provision of this section or the application thereof to any person or  
1100 circumstances is held invalid by a court of competent jurisdiction, invalidity shall not affect  
1101 other provisions or applications of this section that can be given effect without the invalid  
1102 provision or application, and to this end the provisions of this section are declared to be  
1103 severable.

1104 **Drafting note: The repeated provision stating that definitions are as defined in the**  
1105 **Public Private Transportation Act is moved to the beginning of the section. Technical**  
1106 **changes are also made.**

1107 § ~~33.1-23.03:5~~ 33.2-255. Administration of Transportation Trust Fund.

1108 The Transportation Trust Fund shall be established on the books of the Comptroller so as  
1109 to segregate the amounts appropriated to the Fund and the amounts earned or accumulated by  
1110 such trust fund. No portion of such trust fund shall be used for a purpose other than as provided  
1111 ~~herein in this section~~. Funds remaining in the Transportation Trust Fund at the end of a  
1112 biennium shall not revert to the general fund but shall remain in the trust fund; to be used for the  
1113 purposes set forth in §§ ~~33.1-23.03:1~~ 33.2-XXX through ~~33.1-23.03:4~~ 33.2-XXX and shall  
1114 accumulate interest and dividends throughout the existence of the trust fund. Whenever in the  
1115 Board's opinion there are funds in the Transportation Trust Fund in excess of the amount  
1116 required to meet the current needs and demands of the transportation program, the Board may

1117 invest such excess funds in securities that, in its judgment, will be readily convertible into  
1118 money. Such securities may include, ~~but not be limited to,~~ debentures and other government and  
1119 corporate obligations, common and preferred stocks limited to ~~thirty~~ 30 percent of total trust  
1120 funds investments based on cost, "prime quality" commercial paper, as defined and limited by §  
1121 2.2-4502, bankers' acceptances, bonds, money market funds, and overnight, term, and open  
1122 repurchase agreements. The investment of moneys held in the Transportation Trust Fund shall  
1123 be administered by the state treasury under guidelines adopted by the Board pursuant to this  
1124 section.

1125 The Treasurer may, at his option, manage such funds, or hire professional outside  
1126 investment counsel to manage part or all of such funds.

1127 The selection of services related to the management, purchase, or sale of authorized  
1128 investments shall be governed by the ~~foregoing~~ standard provided in this section and shall not  
1129 be subject to the provisions of Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2.

1130 **Drafting note: Technical changes are made, including removing the phrase "but**  
1131 **not limited to" based on § 1-218, which states: "'Includes' means includes, but not limited**  
1132 **to."**

1133 § ~~33.1-23.03:6~~ 33.2-256. Funding for extraordinary repairs.

1134 Notwithstanding any contrary provision of the Code, the ~~Commonwealth Transportation~~  
1135 Board shall have the authority to provide, from revenues available for highway capital  
1136 improvements under § ~~33.1-23.03:2~~ 33.2-XXX, except for revenues pledged to secure any  
1137 bonds issued for transportation purposes, for exceptionally heavy expenditures for repairs or  
1138 replacements made necessary by highway damage resulting from extraordinary accidents,  
1139 vandalism, weather conditions, or acts of God as well as to respond to federal funding initiatives  
1140 ~~which that~~ require matching funds.

1141 **Drafting note: Technical changes.**

1142 § ~~33.1-23.03:8~~ 33.2-258. Priority Transportation Fund established.

1143           A. There is hereby created in the state treasury a special nonreverting fund to be known  
1144 as the Priority Transportation Fund, hereafter referred to as "the Fund." The Fund shall be  
1145 established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain  
1146 in the Fund and be credited to it. All funds as may be designated in the appropriation act for  
1147 deposit to the Fund shall be paid into the state treasury and credited to the Fund. Such funds  
1148 shall include:

1149           1. A portion of the moneys actually collected, including penalty and interest, attributable  
1150 to any increase in revenues from the taxes imposed under Chapter 22 (§ 58.1-2200 et seq.) of  
1151 Title 58.1, with such increase being calculated as the difference between such tax revenues  
1152 collected in the manner prescribed under Chapter 22 less such tax revenues that would have  
1153 been collected using the prescribed manner in effect immediately before the effective date of  
1154 Chapter 22, computed without regard to increases in the rates of taxes under Chapter 22  
1155 pursuant to enactments of the 2007 Session of the General Assembly. The portion to be  
1156 deposited to the Fund shall be the moneys actually collected from such increase in revenues and  
1157 allocated for highway and mass transit improvement projects as set forth in § ~~33.1-23.03:2~~ 33.2-  
1158 XXX, but not including any amounts that are allocated to the Commonwealth Port Fund and the  
1159 Commonwealth Airport Fund under such section. There shall also be deposited into the Fund all  
1160 additional federal revenues attributable to Chapter 22 (§ 58.1-2200 et seq.) of Title 58.1;

1161           2. Beginning with the fiscal year ending June 30, 2000, and for fiscal years thereafter, all  
1162 revenues that exceed the official forecast, pursuant to § 2.2-1503, for (i) the Highway  
1163 Maintenance and Operating Fund and (ii) the allocation to highway and mass transit  
1164 improvement projects as set forth in § ~~33.1-23.03:2~~ 33.2-XXX, but not including any amounts  
1165 that are allocated to the Commonwealth Port Fund and the Commonwealth Airport Fund under  
1166 such section;

1167           3. All revenues deposited into the Fund pursuant to § 58.1-2531; and

1168           4. Any other such funds as may be transferred, allocated, or appropriated.

1169 All moneys in the Fund shall first be used for debt service payments on bonds or  
1170 obligations for which the Fund is expressly required for making debt service payments, to the  
1171 extent needed. The Fund shall be considered a part of the Transportation Trust Fund. Any  
1172 moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not  
1173 revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely  
1174 for the purposes enumerated in subsection B ~~of this section~~. Expenditures and disbursements  
1175 from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller.

1176 B. The ~~Commonwealth Transportation~~ Board shall use the Fund to facilitate the  
1177 financing of priority transportation projects throughout the Commonwealth. The Board may use  
1178 the Fund either (i) by expending amounts therein on such projects directly; (ii) by payment to  
1179 any authority, locality, commission or other entity for the purpose of paying the costs thereof;  
1180 or (iii) by using such amounts to support, secure, or leverage financing for such projects. No  
1181 expenditures from or other use of amounts in the Fund shall be considered in allocating highway  
1182 maintenance and construction funds under § ~~33.1-23.1~~ 33.2-XXX or apportioning  
1183 Transportation Trust Fund funds under § 58.1-638; but shall be in addition thereto. The Board  
1184 shall use the Fund to facilitate the financing of priority transportation projects as designated by  
1185 the General Assembly; provided, ~~however,~~ that, at the discretion of the ~~Commonwealth~~  
1186 ~~Transportation~~ Board; funds allocated to projects within a transportation district may be  
1187 allocated among projects within the same transportation district as needed to meet construction  
1188 cash-flow needs.

1189 C. Notwithstanding any other provision of this section, beginning July 1, 2007, no  
1190 bonds, obligations, or other evidences of debt (the bonds) that expressly require as a source for  
1191 debt service payments or for the repayment of such bonds the revenues of the Fund; shall be  
1192 issued or entered into, unless at the time of the issuance the revenues then in the Fund or  
1193 reasonably anticipated to be deposited into the Fund pursuant to the law then in effect are by  
1194 themselves sufficient to make ~~100%~~ 100 percent of the contractually required debt service

1195 payments on all such bonds, including any interest related thereto and the retirement of such  
1196 bonds.

1197 **Drafting note: Technical changes.**

1198 § ~~33.1-23.03:9~~ 33.2-259. Concession Payments Account.

1199 A. Concession payments to the Commonwealth deposited into the Transportation Trust  
1200 Fund pursuant to subdivision ~~9.7~~ of § ~~33.1-23.03:1~~ 33.2-XXX from qualifying transportation  
1201 facilities developed ~~and/or~~ or operated pursuant to the Public-Private Transportation Act of  
1202 1995 (§ ~~56-556~~ 33.2-XXX et seq.) shall be held in a separate subaccount to be designated the  
1203 "Concession Payments Account," hereinafter referred to as "the Account," together with all  
1204 interest, dividends, and appreciation that accrue to the Account and that are not otherwise  
1205 specifically directed by law or reserved by the Board for other purposes allowed by law.

1206 B. The Board may make allocations from the Account upon such terms and subject to  
1207 such conditions as the Board deems appropriate, to:

1208 1. Pay or finance all or part of the costs of programs or projects, including ~~without~~  
1209 limitation, the costs of planning, operation, maintenance, and improvements incurred in  
1210 connection with the acquisition and construction of projects, provided that allocations from the  
1211 Account shall be limited to programs and projects that are reasonably related to or benefit the  
1212 users of the qualifying transportation facility that was the subject of a concession pursuant to the  
1213 Public-Private Transportation Act of 1995 (§ 33.2-XXX et seq.). The priorities of metropolitan  
1214 planning organizations, planning district commissions, local governments, and transportation  
1215 corridors shall be considered by the Board in making project allocations from moneys in the  
1216 Account.

1217 2. Repay funds from the Toll Facilities Revolving Account or the Transportation  
1218 Partnership Opportunity Fund.

1219 3. Pay the Board's reasonable costs and expenses incurred in the administration and  
1220 management of the Account.

1221 C. Concession payments to the Commonwealth for a qualifying transportation facility  
1222 located within the boundaries of a rapid rail project for which a federal Record of Decision has  
1223 been issued shall be held in a subaccount separate from the Concession Payments Account  
1224 together with all interest, dividends, and appreciation that accrue to the subaccount. The Board  
1225 may make allocations from the subaccount, as the Board deems appropriate, to:

1226 1. Pay or finance all or part of the costs of planning, design, land acquisition, and  
1227 improvements incurred in connection with the construction of such rapid rail project consistent  
1228 with the issued federal Record of Decision, as may be revised from time to time; and

1229 2. Upon determination by the Board that sufficient funds are or will be available to meet  
1230 the schedule for construction of such rapid rail project, pay or finance all or part of the costs of  
1231 planning, design, land acquisition, and improvements incurred in connection with other highway  
1232 and public transportation projects within the corridor of the rapid rail project or within the  
1233 boundaries of the qualifying transportation facility. In the case of highway projects, the Board  
1234 shall follow an approval process generally in accordance with ~~§ 33.1-18~~ [33.2-XXX](#).

1235 D. The provisions of this section shall be liberally construed to the end that its beneficial  
1236 purposes may be effectuated. Insofar as this provision is inconsistent with the provisions of any  
1237 other general, special, or local law, this provision shall be controlling.

1238 E. If any provision of this section or the application thereof to any person or  
1239 circumstances is held invalid by a court of competent jurisdiction, such invalidity shall not  
1240 affect other provisions or applications of this section that can be given effect without the invalid  
1241 provision or application, and to this end the provisions of this section are declared to be  
1242 severable.

1243 **Drafting note: In subdivision B 1, "without limitation" is removed based on § 1-**  
1244 **218, which states: "'Includes' means includes, but not limited to." Technical changes are**  
1245 **also made.**

1246 ~~§ 33.1-23.03:10~~ [33.2-260](#). Tolls for use of Interstate ~~Highway~~ System components.

1247           A. Notwithstanding any contrary provision of this title and in accordance with all  
1248 applicable federal and state statutes and requirements, the ~~Commonwealth Transportation~~ Board  
1249 may impose and collect tolls from all classes of vehicles in amounts established by the Board  
1250 for the use of any component of the Interstate ~~Highway~~ System within the Commonwealth.  
1251 However, prior approval of the General Assembly shall be required prior to the imposition and  
1252 collection of any toll for use of all or any portion of Interstate Route 81. Such funds so collected  
1253 shall be deposited into the Transportation Trust Fund established pursuant to § ~~33.1-23.03:1~~  
1254 33.2-XXX, subject to allocation by the Board as provided in this section.

1255           B. The toll facilities authorized by this section shall be subject to the provisions of  
1256 federal law for the purpose of tolling motor vehicles to finance interstate construction and  
1257 reconstruction, promote efficiency in the use of highways, reduce traffic congestion, improve air  
1258 quality, and for such other purposes as may be permitted by federal law.

1259           C. In order to mitigate traffic congestion in the vicinity of the toll facilities, no toll  
1260 facility shall be operated without high-speed automated toll collection technology designed to  
1261 allow motorists to travel through the toll facilities without stopping to make payments. Nothing  
1262 in this subsection shall be construed to prohibit a toll facility from retaining means of ~~non-~~  
1263 ~~automated~~ nonautomated toll collection in some lanes of the facility. The Board shall also  
1264 consider traffic congestion and mitigation thereof and the impact on local traffic movement as  
1265 factors in determining the location of the toll facilities authorized pursuant to this section.

1266           D. The revenues collected from each toll facility established pursuant to this section  
1267 shall be deposited into segregated subaccounts in the Transportation Trust Fund and may be  
1268 allocated by the ~~Commonwealth Transportation~~ Board as the Board deems appropriate to:

1269           1. Pay or finance all or part of the costs of programs or projects, including ~~without~~  
1270 ~~limitation~~ the costs of planning, operation, maintenance, and improvements incurred in  
1271 connection with the toll facility, provided that such allocations shall be limited to programs and  
1272 projects that are reasonably related to or benefit the users of the toll facility. The priorities of  
1273 metropolitan planning organizations, planning district commissions, local governments, and

1274 transportation corridors shall be considered by the Board in making project allocations from  
1275 such revenues deposited into the Transportation Trust Fund.

1276 2. Repay funds from the Toll Facilities Revolving Account or the Transportation  
1277 Partnership Opportunity Fund.

1278 3. Pay the Board's reasonable costs and expenses incurred in the administration and  
1279 management of the ~~Toll Facility~~ toll facility.

1280 **Drafting note: In subdivision D 1, "without limitation" is removed based on § 1-**  
1281 **218, which states: "'Includes' means includes, but not limited to." Technical changes are**  
1282 **also made.**

1283 ~~§ 33.1-23.04. Expired.~~

1284 **Drafting note: Expired pursuant to Acts 1986, c. 553, cl. 4 on July 1, 1988.**

1285 ~~§ 33.1-23.05~~ 33.2-261. Revenue-sharing funds for systems in certain ~~counties, cities, and~~  
1286 ~~towns~~ localities.

1287 A. From revenues made available by the General Assembly and appropriated for the  
1288 improvement, construction, reconstruction, or maintenance of the systems of state highways, the  
1289 ~~Commonwealth Transportation~~ Board may make an equivalent matching allocation to any  
1290 ~~county, city, or town~~ locality for designations by the governing body of up to \$10 million for  
1291 use by the ~~county, city, or town~~ locality to improve, construct, or reconstruct the highway  
1292 systems within such ~~county, city, or town~~ locality with up to \$5 million for use by the ~~county,~~  
1293 ~~city, or town~~ locality to maintain the highway systems within such ~~county, city, or town~~ locality.

1294 After adopting a resolution supporting the action, the governing body of the locality may request  
1295 revenue-sharing funds to improve, construct, reconstruct, or maintain a highway system located  
1296 in another locality, between two or more localities, or to bring subdivision streets, used as such  
1297 prior to the date specified in § ~~33.1-72.1~~ 33.2-XXX, up to standards sufficient to qualify them  
1298 for inclusion in the ~~state~~ primary and secondary ~~system of highways~~ state highway systems. All  
1299 requests for funding shall be accompanied by a prioritized listing of specified projects.

1300 B. In allocating funds under this section, the Board shall give priority first to allocations  
1301 that will accelerate projects in the ~~Commonwealth Transportation Board's~~ Six-Year  
1302 Improvement Program or the locality's capital plan and next to those pavement resurfacing and  
1303 bridge rehabilitation projects where the maintenance needs analysis determines that the  
1304 infrastructure is below the ~~Department of Transportation's~~ Department's maintenance  
1305 performance targets.

1306 C. The Department ~~of Transportation will shall~~ contract with the ~~county, city, or town~~  
1307 locality for the implementation of the project or projects. Such contract may cover either a  
1308 single project or may provide for the locality's implementation of several projects. The ~~county,~~  
1309 ~~city, or town~~ locality will shall undertake implementation of the particular project or projects by  
1310 obtaining the necessary permits from the Department ~~of Transportation~~ in order to ensure that  
1311 the improvement is consistent with the Department's standards for such improvements. At the  
1312 request of the locality, the Department may provide the locality with engineering, right-of-way  
1313 acquisition, construction, ~~and/or or~~ maintenance services for a project with its own forces. The  
1314 locality shall provide payment to the Department for any such services. If administered by the  
1315 Department, such contract shall also require that the governing body of the locality pay to the  
1316 Department within 30 days the local revenue-sharing funds upon written notice by the  
1317 Department of its intent to proceed. Any project having funds allocated under this program shall  
1318 be initiated in such a fashion where at least a portion of such funds have been expended within  
1319 one year of allocation. Any revenue-sharing funds for projects not initiated after two subsequent  
1320 fiscal years of allocation may be reallocated at the discretion of the ~~Commonwealth~~  
1321 ~~Transportation~~ Board.

1322 D. Total Commonwealth funds allocated by the Board under this section shall not  
1323 exceed \$200 million in any one fiscal year and no less than \$15 million each fiscal year, subject  
1324 to appropriation for such purpose. For any fiscal year in which less than the full program  
1325 allocation has been allocated by the ~~Commonwealth Transportation~~ Board to specific governing

1326 bodies, those localities requesting the maximum allocation under subsection A may be allowed  
1327 an additional allocation at the discretion of the Board.

1328 E. The funds allocated by the ~~Commonwealth Transportation~~ Board under this section  
1329 shall be distributed and administered in accordance with the revenue-sharing program guidelines  
1330 established by the Board.

1331 **Drafting note: Technical changes.**

1332 § ~~33.1-23.1~~ 33.2-262. Allocation of funds among highway systems.

1333 A. As used in this section:

1334 "Bridge reconstruction and rehabilitation" means reconstruction and rehabilitation of  
1335 those bridges identified by the Department as being functionally obsolete or structurally  
1336 deficient.

1337 "High priority projects" means those projects of regional or statewide significance  
1338 identified by the Board that reduce congestion, increase safety, create jobs, or increase  
1339 economic development.

1340 "Smart roadway technology" means those projects or programs identified by the Board  
1341 that reduce congestion, improve mobility, improve safety, provide up-to-date travel data, or  
1342 improve emergency response.

1343 B. The ~~Commonwealth Transportation~~ Board shall allocate each year from all funds  
1344 made available for highway purposes such amount as it deems reasonable and necessary for the  
1345 maintenance of roads within the ~~interstate system~~ Interstate System of highways, the primary  
1346 state highway system ~~of state highways~~, the secondary state highway system ~~of state highways~~  
1347 and for city and town street maintenance payments made pursuant to § ~~33.1-41.1~~ 33.2-XXX and  
1348 payments made to counties ~~which that~~ have withdrawn or elect to withdraw from the secondary  
1349 state highway system ~~of state highways~~ pursuant to § ~~33.1-23.5:1~~ 33.2-XXX.

1350 B.C. After funds are set aside for administrative and general expenses and pursuant to  
1351 other provisions in this title that provide for the disposition of funds prior to allocation for  
1352 highway purposes, and after allocation is made pursuant to subsection A.B, the ~~Commonwealth~~

1353 ~~Transportation~~ Board shall allocate an amount determined by the Board, not to exceed \$500  
1354 million in any given year, as follows: (i) 25 percent to bridge reconstruction and rehabilitation;  
1355 (ii) 25 percent to advancing high priority projects statewide; (iii) 25 percent to reconstructing  
1356 deteriorated ~~interstate~~ Interstate System and primary system pavements determined to have a  
1357 Combined Condition Index of less than 60; (iv) 15 percent to projects undertaken pursuant to  
1358 the Public-Private Transportation Act of 1995 (§ ~~56-556~~ 33.2-XXX et seq.); (v) five percent to  
1359 paving unpaved roads carrying more than 200 vehicles per day; and (vi) five percent to smart  
1360 roadway technology, provided that, at the discretion of the ~~Commonwealth Transportation~~  
1361 Board, such percentages of funds may be adjusted in any given year to meet project cash flow  
1362 needs or when funds cannot be expended due to legal, environmental, or other project  
1363 management considerations and provided that such allocations shall cease beginning July 1,  
1364 2020. After such allocations are made, the Board may allocate each year up to 10 percent of the  
1365 funds remaining for highway purposes for the undertaking and financing of rail projects that, in  
1366 the Board's determination, will result in mitigation of highway congestion. After the foregoing  
1367 allocations have been made, the Board shall allocate the remaining funds available for highway  
1368 purposes, exclusive of federal funds for the ~~interstate system~~ Interstate System, among the  
1369 several highway systems for construction first pursuant to §§ ~~33.1-23.1:1~~ 33.2-XXX and ~~33.1-~~  
1370 23.1:2 33.2-XXX and then as follows:

1371 1. Forty percent of the remaining funds exclusive of federal-aid matching funds for the  
1372 ~~interstate system~~ Interstate System shall be allocated to the primary state highway system ~~of~~  
1373 ~~state highways~~, including the arterial network, and in addition, an amount shall be allocated to  
1374 the primary state highway system as interstate matching funds as provided in subsection ~~B X~~  
1375 § ~~33.1-23.2~~ 33.2-XXX.

1376 2. Thirty percent of the remaining funds exclusive of federal-aid matching funds for the  
1377 ~~interstate system~~ Interstate System shall be allocated to urban highways for state aid pursuant to  
1378 § ~~33.1-44~~ 33.2-XXX.

1379           3. Thirty percent of the remaining funds exclusive of federal-aid matching funds for the  
1380 ~~interstate system~~ Interstate System shall be allocated to the secondary state highway system ~~of~~  
1381 ~~state highways~~.

1382           ~~C~~ D. In addition, the ~~Commonwealth Transportation~~ Board, from funds appropriated for  
1383 such purpose in the general appropriation act, shall allocate additional funds to the Cities of  
1384 Newport News, Norfolk, and Portsmouth and the County of Warren in such manner and  
1385 apportion such funds among such localities as the Board may determine, unless otherwise  
1386 provided in the general appropriation act. The localities shall use such funds to address highway  
1387 maintenance and repair needs created by or associated with port operations in those localities.

1388           ~~D~~ E. Notwithstanding the ~~foregoing~~ provisions of this section, the General Assembly  
1389 may, through the general appropriations act, permit the Governor to increase the amounts to be  
1390 allocated to highway maintenance, highway construction, either or both.

1391           ~~E. As used in this section:~~

1392           ~~"Bridge reconstruction and rehabilitation" means reconstruction and rehabilitation of~~  
1393 ~~those bridges identified by the Department of Transportation as being functionally obsolete or~~  
1394 ~~structurally deficient.~~

1395           ~~"High priority projects" means those projects of regional or statewide significance~~  
1396 ~~identified by the Board that reduce congestion, increase safety, create jobs, or increase~~  
1397 ~~economic development.~~

1398           ~~"Smart roadway technology" means those projects or programs identified by the Board~~  
1399 ~~that reduce congestion, improve mobility, improve safety, provide up-to-date travel data, or~~  
1400 ~~improve emergency response.~~

1401           **Drafting note: In keeping with current practice, all definitions are moved to the**  
1402 **beginning of the section. Technical changes are also made.**

1403           ~~§ 33.1-23.1-1~~ § 33.2-263. Unpaved secondary road fund created; allocations.

1404           A. Before funds are allocated for distribution for highway construction pursuant to §  
1405 ~~33.1-23.1 subdivisions~~ B 1, ~~B~~ 2, and ~~B~~ 3 of § 33.2-XXX, a fund shall be established for the

1406 paving of nonsurface treated secondary roads ~~which that~~ carry ~~fifty~~ 50 vehicles or more per day.  
1407 Such fund shall contain 5.67 percent of the total funds available for highway construction under  
1408 ~~§ 33.1-23.1-subdivisions~~ B 1, ~~B~~ 2, and ~~B~~ 3 of § 33.2-XXX.

1409 B. Such funds shall be distributed to counties in the secondary state highway system  
1410 based on the ratio of nonsurface treated roads in each county carrying ~~fifty~~ 50 vehicles or more  
1411 per day to the total number of such nonsurface treated roads in the Commonwealth.

1412 C. The governing body of any county may have funds allocated to the county under this  
1413 section added to the county's secondary system construction funds allocated pursuant to ~~§ 33.1-~~  
1414 ~~23.4~~ 33.2-XXX. For each \$250,000 or portion thereof added to secondary construction funds  
1415 under this provision, the amount of the county's nonsurface treated roads used to distribute funds  
1416 under this section in subsequent years shall be reduced by one mile or proportional part of one  
1417 mile.

1418 **Drafting note: Technical changes.**

1419 ~~§ 33.1-23.1:2~~ 33.2-264. Allocation of funds for ~~interstate~~ Interstate match.

1420 After making the allocations provided for in subsection ~~A XXX~~ of ~~§ 33.1-23.1~~ 33.2-  
1421 XXX, but before making any allocations under subdivisions B 1, ~~B~~ 2, and ~~B~~ 3 of ~~§ 33.1-23.1~~  
1422 33.2-XXX, a fund shall be established for matching federal-aid interstate funds.

1423 This fund shall be established annually by allocating to it all federal-aid interstate  
1424 matching funds needed for the year, less the total amount of district primary allocations for the  
1425 ~~interstate~~ Interstate federal-aid match allocated under subsection ~~B XXX~~ of ~~§ 33.1-23.2~~ 33.2-  
1426 XXX.

1427 **Drafting note: Technical changes.**

1428 ~~§ 33.1-23.2~~ 33.2-265. Allocation of construction funds for primary system and ~~interstate~~  
1429 Interstate match.

1430 A. The ~~Commonwealth Transportation~~ Board shall allocate such funds as are available  
1431 under subdivision B 1 of ~~§ 33.1-23.1~~ 33.2-XXX to the primary state highway system ~~of state~~  
1432 highways, including the arterial network, for construction and shall apportion such funds among

1433 the nine highway construction districts so that each highway construction district shall be  
1434 allocated a share of such funds equal to the proportion that such highway construction district  
1435 bears to the Commonwealth as a whole in terms of: (i) vehicle-miles traveled on the primary  
1436 state highway system, (ii) primary-~~road~~ highway lane mileage, and (iii) a primary-~~road~~ highway  
1437 need factor-~~which that~~ adjusts the weights in the allocation formula for the highway construction  
1438 district with the largest under-allocation relative to primary needs, with vehicle-miles traveled  
1439 weighted-~~seventy~~ 70 percent, primary-~~road~~ highway lane mileage weighted-~~twenty-five~~ 25  
1440 percent, and the primary-~~road~~ highway need factor weighted five percent.

1441 B. Out of each district's total allocation of primary funds pursuant to subdivision B 1 of  
1442 § ~~33.1-23.1~~ 33.2-XXX, the Board shall allocate all needed interstate federal-aid matching funds,  
1443 up to a maximum of ~~twenty-five~~ 25 percent of the district's primary allocation. Any additional  
1444 ~~interstate~~ Interstate federal-aid matching funds needed in a district shall be allocated by the  
1445 Board from the Interstate Federal-Aid Matching Fund established in § ~~33.1-23.1:2~~ 33.2-XXX.

1446 C. Notwithstanding subsection A ~~of this section~~, the Board may provide for  
1447 exceptionally heavy expenditures for repairs or replacements made necessary by highway  
1448 damage resulting from accidents, severe weather conditions, acts of God, or vandalism.

1449 D. Notwithstanding subsection A, the Board may, from funds available under  
1450 subdivision B 1 of § ~~33.1-23.1~~ 33.2-XXX, provide funding for the construction of highway  
1451 projects maintained or to be maintained by a municipality, provided such project involves a  
1452 component of the National Highway System and such funds are derived from allocations to the  
1453 highway construction district in which such project is located. Any allocation under this  
1454 subsection shall not diminish funds allocated or allocable to any such municipality under § ~~33.1-~~  
1455 ~~23.3~~ 33.2-XXX.

1456 E. Such funds allocated to the primary system shall, as far as possible, be allotted prior  
1457 to the commencement of the fiscal year and public announcement made of such allotment, but  
1458 the Board shall not approve such allotment until after a public hearing at which political  
1459 subdivisions of the Commonwealth and interested citizens may be heard.

1460 In any case where any allotment of funds is made under this subsection to any county; all  
1461 or a part of which subsequently is incorporated as or into a city or town, such allocation shall  
1462 not be impaired thereby and the funds so allocated shall be expended as if such county or any  
1463 part thereof had never become an incorporated city, but that portion of such city shall not be  
1464 eligible to receive funds as a city during the same year it receives the funds allocated as a county  
1465 or as any part of a county.

1466 **Drafting note: References to construction district are amended to read "highway**  
1467 **construction district" to maintain consistency throughout this title. References to**  
1468 **"primary roads" are amended to "primary highways" to maintain consistency and**  
1469 **because they are in a system of highways. Technical changes are also made.**

1470 § ~~33.1-23.3~~ 33.2-266. Allocation of construction funds for urban system highways.

1471 A. For the purposes of this section, "population" means either the population according  
1472 to the latest United States census or the latest population estimate of the Weldon Cooper Center  
1473 for Public Service of the University of Virginia, whichever is more recent.

1474 B. Such funds as are allocated to urban highways in (i) all towns that have a population  
1475 of more than 3,500 inhabitants according to the last preceding United States ~~Census;~~ census; (ii)  
1476 all towns which, according to evidence satisfactory to the ~~Commonwealth Transportation~~ Board,  
1477 have attained a population of more than 3,500 since the last preceding United States census;  
1478 (iii) ~~all incorporated towns~~ Chase City, Elkton, Grottoes, Narrows, Pearisburg, and Saltville,  
1479 which, on June 30, 1985, maintained certain streets under § ~~33.1-80~~ 33.2-XXX as then in  
1480 effect;  
1481 (iv) all cities regardless of their populations;  
1482 and (v) the Towns of Wise, Lebanon, and  
1483 Altavista pursuant to subdivision B 2 of § ~~33.1-23.1~~ 33.2-XXX shall be apportioned among the  
1484 cities and towns of ~~this the~~ Commonwealth by the ~~Commonwealth Transportation~~ Board in such  
1485 a manner that each city or town to which these funds are allocable receives the same proportion  
1486 of total funds available as the population of that city or town bears to the total population of all  
cities and towns among which such funds are allocable. ~~For the purposes of this section, the~~  
~~term "population" means either the population according to the latest United States census or the~~

1487 ~~latest population estimate of the Center for Public Service, whichever is more recent.~~ Whenever  
1488 any city or town qualifies under this section for allocation of funds, such qualification shall  
1489 continue to apply to such city or town notwithstanding any subsequent changes in population  
1490 and shall cease to apply only upon the subsequent enactment by the General Assembly of a  
1491 measure in which the intent is clearly stated. All allocations made prior to July 1, 2001, to cities  
1492 and towns meeting the criteria ~~above~~ in this subsection are hereby ratified, validated, and  
1493 confirmed.

1494 ~~B. C.~~ No apportionment ~~hereunder pursuant to this section~~ shall be made to any city or  
1495 town which does not have an urban project or projects approved by the ~~Commonwealth~~  
1496 ~~Transportation~~ Board, and in no case shall the apportionment to any city or town exceed the  
1497 total estimated cost of the project or projects for which funds are allocated. Such funds shall, as  
1498 far as possible, be allotted prior to the commencement of the fiscal year and public  
1499 announcement made of such allotment. Any apportionment due but not received by any city or  
1500 town in a fiscal year for use under this section shall accrue as a credit to such city or town and  
1501 be held for its construction projects for five succeeding fiscal years. Funds accrued shall be  
1502 apportioned prior to any other distribution under this section in the fiscal year requested by the  
1503 city or town.

1504 A portion of allocations made to any city or town under this section may be used on  
1505 streets functionally classified as arterial for (i) the purchase of residue parcels or land resulting  
1506 from highway construction or reconstruction projects where the purchase will result in  
1507 necessary access control or land use control directly related to the purpose and need for the  
1508 project, (ii) improvements to traffic safety, (iii) improvement to traffic flow and transportation  
1509 system use, or (iv) any combination of clauses (i), (ii), and (iii). Notwithstanding other  
1510 provisions of this section, not more than two-thirds of the annual urban system highway funds  
1511 apportioned to a city or town under this section may be used to reimburse the locality for debt  
1512 service for bonds or eligible project costs incurred on approved projects included in the Six-  
1513 Year Improvement Program of the ~~Commonwealth Transportation~~ Board and the city's or town's

1514 capital improvement program. Such funds may also be used by the locality for debt service for  
1515 bonds issued for, or eligible project costs incurred or to be incurred on, approved projects  
1516 included, at the time such bonds are issued or such costs are incurred or are to be incurred, in the  
1517 Six-Year Improvement Program of the ~~Commonwealth Transportation~~ Board and the city's or  
1518 town's capital improvement program. Any such funds so apportioned to and received by such  
1519 city or town, or any portion thereof, may be deposited in a special fund that shall be established  
1520 separate and apart from any other funds, general or special.

1521         When the city or town presents a resolution requesting that a portion of its annual urban  
1522 system apportionment be set aside for reimbursement for, or payment of, debt service under this  
1523 section for a specific eligible project, the ~~Commonwealth Transportation~~ Board shall, subject to  
1524 appropriation and allocation, set aside no more than two-thirds of the anticipated annual  
1525 apportionment of urban system funding to the city or town for such purpose, provided such  
1526 funds have not been previously committed by the Board for projects contained in the Six-Year  
1527 Improvement Program.

1528         The setting aside and use of funds under this section for reimbursement for, or payment  
1529 of, debt service shall be subject to such terms and conditions as may be prescribed by the  
1530 Commissioner of Highways.

1531         The provisions of this section shall not constitute a debt or obligation of the  
1532 ~~Commonwealth Transportation~~ Board or the Commonwealth ~~of Virginia~~.

1533         ~~C. D.~~ The governing body of any city or town may, with the consent of the  
1534 ~~Commonwealth Transportation~~ Board, expend urban system highway construction funds  
1535 allocated annually to the city or town by the ~~Commonwealth Transportation~~ Board for the  
1536 design, land acquisition, and construction of transportation projects that have been included in  
1537 the ~~Commonwealth Transportation~~ Board's Six-Year Improvement Program and for the  
1538 resurfacing, restoration, rehabilitation, reconstruction, and improvement of streets within the  
1539 city or town for which the city receives maintenance payments under § ~~33.1-41.1~~ 33.2-XXX.

1540 ~~D.E.~~ At the election of each city or town, payment of the funds may be made in equal  
1541 amounts, one in each quarter of the fiscal year, and shall be reduced; in the case of each city and  
1542 town; by the amount of federal-aid construction funds credited to each city or town and the  
1543 amount of funds forecasted to be expended by the Department of Transportation or the  
1544 Department of Rail and Public Transportation for any project or projects on behalf of the city or  
1545 town. Those cities or towns who decide to take over the responsibility for their construction  
1546 program shall notify the ~~Commonwealth Transportation~~ Board by December 31 for  
1547 implementation the following fiscal year.

1548 **Drafting note: The definition of population is moved to the beginning of the section**  
1549 **to conform to current Code standards and the Weldon Cooper Center for Public Service**  
1550 **of the University of Virginia is updated to reflect its current name. Technical changes are**  
1551 **also made. Subdivision (iii) of subsection B of existing § 33.1-23.3 is amended to include**  
1552 **the names of the towns which on June 30, 1985 maintained certain streets under existing §**  
1553 **33.1-80, with the exception of Woodstock, which now exceeds a population of 3,500 and it**  
1554 **qualifies as an urban locality under 33.1-23.3 and no longer needs to be grandfathered in**  
1555 **under 33.1-80.**

1556 § ~~33.1-223.2:13~~ 33.2-XXX. Construction of U.S. Route 29 bypass.

1557 If the construction of a U.S. Route 29 bypass around ~~any city located in any county that~~  
1558 ~~both (i) is located outside Planning District 8 and (ii) operates under the county executive form~~  
1559 ~~of government~~ the City of Charlottesville is not constructed because of opposition from a  
1560 metropolitan planning organization, and the Federal Highway Administration requires the  
1561 Commonwealth to reimburse the federal government for federal funds expended in connection  
1562 with such project, an amount equal to the amount of such reimbursement shall be deducted by  
1563 the ~~Commonwealth Transportation~~ Board from primary state highway system ~~highway~~  
1564 construction funds allocated or allocable to the highway construction district in which the  
1565 project was located. Furthermore, in the event of such nonconstruction, an amount equal to the  
1566 total of all state funds expended on such project shall be deducted by the ~~Commonwealth~~

1567 ~~Transportation~~ Board from primary state highway system ~~highway~~ construction funds allocated  
1568 or allocable to the highway construction district in which the project was located.

1569 **Drafting note: Technical changes. The city referred to in this section is**  
1570 **Charlottesville and the County is Albemarle.**

1571 § ~~33.1-23.4~~ 33.2-267. Allocation of construction funds within secondary state highway  
1572 system.

1573 A. For the purposes of this section:

1574 "Area" means the total land area of a county reduced by the area of any military  
1575 reservations and state or national parks or forests within its boundaries and such other similar  
1576 areas and facilities of five square miles in area or more, as may be determined by the Board.

1577 "Population" means either population according to the latest United States census or the  
1578 latest population estimate of the Weldon Cooper Center for Public Service of the University of  
1579 Virginia, whichever is more recent.

1580 B. Such funds as are allocated to the secondary state highway system ~~of state highways~~  
1581 pursuant to subdivision B 3 of § ~~33.1-23.1~~ 33.2-XXX shall be apportioned among the several  
1582 counties in the secondary system by the ~~Commonwealth Transportation~~ Board so that each such  
1583 county shall be allocated a share of such funds equal to the proportion that such county bears to  
1584 the Commonwealth as a whole in terms of area and population, with population being weighted  
1585 80 percent; and area being weighted 20 percent. ~~For the purpose of this section, "area" means~~  
1586 ~~the total land area of a county reduced by the area of any military reservations and state or~~  
1587 ~~national parks or forests within its boundaries and such other similar areas and facilities of five~~  
1588 ~~square miles in area or more, as may be determined by the Commonwealth Transportation~~  
1589 ~~Board.~~

1590 For the purposes of this section, the term "population" shall mean either population  
1591 according to the latest United States census or the latest population estimate of the Center for  
1592 Public Service of the University of Virginia, whichever is more recent.

1593           If so requested in a resolution adopted by the local governing body, funds allocated to  
1594 any county under this section may be used to support primary highway system construction  
1595 projects within the county.

1596           Before allocating funds under the ~~foregoing~~ provisions of this ~~section subsection~~, the  
1597 Board may provide for exceptionally heavy expenditures for repairs or replacements made  
1598 necessary by highway damage resulting from accidents, severe weather conditions, acts of God  
1599 or vandalism.

1600           ~~B. C.~~ Notwithstanding other provisions of this section, not more than one-third of the  
1601 annual secondary state highway system ~~highway~~ funds apportioned to a county under this  
1602 section may be used to reimburse the county for (i) debt service for bonds or (ii) eligible project  
1603 costs incurred on approved projects included in the county's Secondary Six-Year Plan and the  
1604 county's capital improvement program. Such funds may also be used by the county for debt  
1605 service for bonds issued for, or eligible project costs incurred or to be incurred on, approved  
1606 projects included, at the time such bonds are issued or such costs are incurred or are to be  
1607 incurred, in the Six-Year Improvement Program of the ~~Commonwealth Transportation~~ Board  
1608 and the county's capital improvement program. Any such funds so apportioned to and received  
1609 by such county, or any portion thereof, may be deposited in a special fund that shall be  
1610 established separate and apart from any other funds, general or special.

1611           When a county presents a resolution requesting that a portion of its annual ~~secondary~~  
1612 construction allocation for secondary highways be set aside for reimbursement for, or payment  
1613 of, debt service under this section for a specific eligible project, the ~~Commonwealth~~  
1614 ~~Transportation~~ Board shall, subject to appropriation and allocation, set aside no more than one-  
1615 third of the anticipated annual allocation of secondary state highway system construction  
1616 funding to the county for such purpose, provided such funds have not been previously  
1617 committed for projects contained in the county's Secondary Six-Year Plan.

1618           The setting aside and use of funds under this section for reimbursement for, or payment  
1619 of, debt service shall be subject to such terms and conditions as may be prescribed by the  
1620 Commissioner of Highways.

1621           The provisions of this section shall not constitute a debt or obligation of the  
1622 ~~Commonwealth Transportation~~ Board or the Commonwealth ~~of Virginia~~.

1623           ~~C.-D.~~ In counties having elected to manage the construction program for the secondary  
1624 ~~state highway~~ system ~~of state highways~~ within the county; in accordance with § ~~33.1-84.1 33.2-~~  
1625 ~~XXX~~, payment of funds from the allocation of secondary highway construction funds for the  
1626 county may be made in equal amounts, one in each quarter of the fiscal year, and shall be  
1627 reduced by the amount of federal-aid construction funds credited to each county, which will be  
1628 reimbursed as qualifying expenditures occur and by the amount of funds forecast by the  
1629 Department of Transportation and by the Department of Rail and Public Transportation to be  
1630 expended for any construction project or projects or county-wide activities on behalf of the  
1631 county or other financial obligations. Those counties that decide to take over the responsibility  
1632 for the secondary highway construction program shall notify the ~~Commonwealth Transportation~~  
1633 Board by July 1 for implementation the following year. Implementation shall take place as  
1634 specified in the agreement referenced in § ~~33.1-84.1 33.2-XXX~~.

1635           ~~D.-E.~~ The chief administrative officer of counties receiving funds under subsection ~~C~~ of  
1636 ~~this section D~~ shall make annual reports of expenditures to the Department ~~of Transportation~~ in  
1637 such form as the ~~Commonwealth Transportation~~ Board shall prescribe, accounting for all  
1638 construction expenditures made from quarterly payments. Such reports shall be included in the  
1639 scope of the annual audit of each county conducted by independent certified public accountants.

1640           **Drafting note: The definitions of "area" and "population" are relocated to the**  
1641 **beginnings of the section and the Weldon Cooper Center for Public Service of the**  
1642 **University of Virginia is updated to reflect its current name. Technical changes are also**  
1643 **made.**

1644 § ~~33.1-23.4:01~~ 33.2-268. Allocation of proceeds of Commonwealth of Virginia  
1645 Transportation Capital Projects Revenue Bonds.

1646 The ~~Commonwealth Transportation~~ Board shall allocate, use, and distribute the proceeds  
1647 of any bonds it is authorized to issue on or after July 1, 2007, pursuant to subdivision ~~4f XXX~~ of  
1648 § ~~33.1-269~~ 33.2-XXX, as follows:

1649 1. A minimum of 20 percent of the bond proceeds shall be used for transit capital  
1650 consistent with subdivision A 4 g of § 58.1-638.

1651 2. A minimum of 4.3 percent of the bond proceeds shall be used for rail capital  
1652 consistent with the provisions of §§ ~~33.1-221.1:1.1~~ 33.2-XXX and ~~33.1-221.1:1.2~~ 33.2-XXX.

1653 3. The remaining amount of bond proceeds shall be used for paying the costs incurred or  
1654 to be incurred for construction of transportation projects with such bond proceeds used or  
1655 allocated as follows: (i) first, to match federal highway funds projected to be made available and  
1656 allocated to highway and public transportation capital projects to the extent determined by the  
1657 ~~Commonwealth Transportation~~ Board, for purposes of allowing additional state construction  
1658 funds to be allocated to the primary, urban, and secondary highway systems ~~of highways~~  
1659 pursuant to subdivisions B 1, ~~B~~ 2, and ~~B~~ 3 of § ~~33.1-23.1~~ 33.2-XXX; (ii) ~~next~~ second, to provide  
1660 any required funding to fulfill the Commonwealth's allocation of equivalent revenue sharing  
1661 matching funds pursuant to § ~~33.1-23.05~~ 33.2-XXX to the extent determined by the  
1662 ~~Commonwealth Transportation~~ Board; and (iii) third, to pay or fund the costs of statewide or  
1663 regional projects throughout the Commonwealth. Costs incurred or to be incurred for  
1664 construction or funding of these transportation projects shall include, ~~but are not limited to,~~  
1665 environmental and engineering studies, rights-of-way acquisition, improvements to all modes of  
1666 transportation, acquisition, construction and related improvements, and any financing costs or  
1667 other financing expenses relating to such bonds. Such costs may include the payment of interest  
1668 on such bonds for a period during construction and not exceeding one year after completion of  
1669 construction of the relevant project.

1670 4. The total amount of bonds authorized shall be used for purposes of applying the  
1671 percentages in subdivisions 1 through 3.

1672 **Drafting note: In subdivision 3, "but are not limited to" is removed based on § 1-**  
1673 **218, which states: "'Includes' means includes, but not limited to." Technical changes are**  
1674 **also made.**

1675 ~~§ 33.1-23.5. Funds for Arlington and Henrico.~~

1676 ~~Notwithstanding any other provision of law, for fiscal year nineteen hundred seventy six~~  
1677 ~~and thereafter the Highway and Transportation Commission shall pay to the following counties~~  
1678 ~~which have withdrawn from the secondary system of State highways under the provisions of §~~  
1679 ~~11 of Chapter 415 of the Acts of Assembly of 1932, and which have not elected to return: to~~  
1680 ~~Henrico County and amount equal to 1.825 per centum of the net revenue available for highway~~  
1681 ~~purposes under Chapter 13 of Title 58 (§ 58-686 et seq.) for each fiscal year and to Arlington~~  
1682 ~~County an amount equal to 1.281 per centum of the net revenue available for highway purposes~~  
1683 ~~under said chapter for each fiscal year. The allocations under this subsection shall be the only~~  
1684 ~~entitlements of Henrico and Arlington counties with respect to the motor fuel tax levied under~~  
1685 ~~said chapter by virtue of having withdrawn from the secondary system. Further, notwithstanding~~  
1686 ~~any other provision of law to the contrary, the Commission shall, before apportioning secondary~~  
1687 ~~funds derived from the nineteen hundred sixty four and nineteen hundred sixty six sessions of~~  
1688 ~~the General Assembly to the counties in the secondary system, pay to the counties which have~~  
1689 ~~withdrawn their roads from the secondary system a portion of such revenue equal to 1.825 per~~  
1690 ~~centum in the case of Henrico County and 1.281 per centum in the case of Arlington County.~~  
1691 ~~The entitlements of those counties from all other sources shall be computed as provided by law~~

1692 ~~Not set out. (1977, c. 578.)~~

1693 **Drafting note: This section is derived from Chapter 578 of the 1977 Acts of**  
1694 **Assembly and currently is not set out, but it is rendered obsolete by § 33.1-23.5:1.**

1695 ~~§ 33.1-23.5:1 33.2-269. Funds for counties which that have withdrawn or elect to~~  
1696 ~~withdraw from the secondary state highway system ~~of state highways~~.~~

1697 ~~Notwithstanding the provisions of § 33.1-23.5, pursuant~~ Pursuant to subsection ~~A XXX~~  
1698 of § ~~33.1-23.1 33.2-XXX~~, the ~~Commonwealth Transportation~~ Board shall make the following  
1699 payments to counties ~~which that~~ have withdrawn or elect to withdraw from the secondary state  
1700 highway system ~~of state highways~~ under the provisions of § 11 of Chapter 415 of the Acts of  
1701 Assembly of 1932; and ~~which that~~ have not elected to return: to any county having withdrawn  
1702 prior to June 30, 1985, and having an area greater than 100 square miles, an amount equal to  
1703 \$3,616 per lane-mile for fiscal year 1986, and to any county having an area less than 100 square  
1704 miles, an amount equal to \$7,201 per lane-mile for fiscal year 1986; to any county that elects to  
1705 withdraw after June 30, 1985, the ~~Commonwealth Transportation~~ Board shall establish a rate  
1706 per lane-mile for the first year using (i) an amount for maintenance based on maintenance  
1707 standards and unit costs used by the Department ~~of Transportation~~ to prepare its secondary  
1708 highway system maintenance budget for the year in which the county withdraws; and (ii) an  
1709 amount for administration equal to five percent of the maintenance figure determined in clause  
1710 (i) ~~above~~. The payment rates shall be adjusted annually by the Board in accordance with  
1711 procedures established for adjusting payments to cities and towns under § ~~33.1-41.1 33.2-XXX~~,  
1712 and lane mileage shall be adjusted annually to include ~~(i) streets and (a)~~ highways accepted for  
1713 maintenance in the county system by the local governing body; or ~~(ii) streets and (b)~~ highways  
1714 constructed according to standards set forth in the county subdivision ordinance or county  
1715 thoroughfare plan, and being not less than the standards set by the Department ~~of~~  
1716 Transportation. Such counties shall, in addition, each receive for construction from funds  
1717 allocated pursuant to subdivision B 3 of § ~~33.1-23.1 33.2-XXX~~ an annual amount calculated in  
1718 the same manner as payments for construction in the state secondary highway system are  
1719 calculated.

1720 Payment of the funds shall be made in four equal sums, one in each quarter of the fiscal  
1721 year, and shall be reduced; in the case of each such county; by the amount of federal-aid  
1722 construction funds credited to each such county.

1723           The chief administrative officer of such counties receiving such funds shall make annual  
1724 reports of expenditures to the Board, in such form as the Board shall prescribe, accounting for  
1725 all expenditures, including delineation between construction and maintenance expenditures and  
1726 reporting on their performance as specified in subdivision B 3 of § ~~33.1-23.02~~ 33.2-XXX. Such  
1727 reports shall be included in the scope of the annual audit of each county conducted by  
1728 independent certified public accountants.

1729           **Drafting note: Technical change.**

1730           § ~~33.1-23.5:2~~ 33.2-270. Use of recycled materials in highway construction.

1731           The Department shall create a Recycled Materials in Highway Construction Advisory  
1732 Committee ~~which that~~ shall include, ~~but not be limited to:~~ one person representing the  
1733 Department, one person representing the Virginia ~~Roadbuilders Association, one person~~  
1734 ~~representing the Virginia Aggregates Association~~ Transportation Construction Alliance, one  
1735 person representing the Virginia Asphalt Association, one person representing the Virginia  
1736 Waste Industries Association, one person representing ~~the~~ Virginia Department of Waste  
1737 Management, one person representing Virginians for Recycling, Inc., and one person  
1738 representing a Virginia local government or authority ~~which that~~ operates or contracts for the  
1739 operation of a recycling facility. The Advisory Committee shall make recommendations to the  
1740 Department on the specifications to be set by the Department pursuant to this section. The  
1741 Advisory Committee shall also make recommendations to the Department on the components of  
1742 a five-year plan for encouraging the increased use by the Department of recycled glass and other  
1743 recyclable materials in Virginia highway projects. ~~The Department shall report to the 1994~~  
1744 ~~Session of the General Assembly actions taken to comply with the provisions of this section.~~

1745           The Department, after receiving the recommendations of the Recycled Materials in  
1746 Highway Construction Advisory Committee, shall (i) set specifications; in conjunction with its  
1747 road and bridge specifications and in all of its similar publications and documents, ~~which that~~  
1748 authorize and govern the use of recycled glass as construction material in highway-related

1749 construction in Virginia and (ii) adopt a five-year plan encouraging the increased use by the  
1750 Department of recycled glass and other recycled materials in Virginia highway projects.

1751 The Department shall maintain and make available to its contractors a list of the sites in  
1752 [Virginia the Commonwealth](#) from which they may obtain recycled glass and other recycled  
1753 materials for use in ~~Virginia~~ highway construction projects [in the Commonwealth](#).

1754 **Drafting note: Technical changes are made, including removing the phrase "but**  
1755 **not limited to" based on § 1-218, which states: "'Includes' means includes, but not limited**  
1756 **to." The Virginia Roadbuilders Association and the Virginia Aggregates Association**  
1757 **merged in 2005 to become the Virginia Transportation Construction Alliance. They can be**  
1758 **given two seats or the membership number can change. The Virginia Department of**  
1759 **Waste Management no longer exists. Should this seat be given to the Department of**  
1760 **Environmental Quality or the Waste Management Board?**

1761 ~~Article 1.2.~~

1762 ~~Virginia Transportation Infrastructure Bank.~~

1763 ~~Article 1.3.~~

1764 ~~Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes.~~

1765 **Drafting note: Articles 1.2 (§ 33.1-23.6 et seq., Virginia Transportation**  
1766 **Infrastructure Bank) and 1.3 (§ 33.1-23.14 et seq., Commonwealth of Virginia Federal**  
1767 **Transportation Grant Anticipation Revenue Notes) of Chapter 1 are relocated to Chapter**  
1768 **XXX, Transportation Funding.**

1769 ~~Article 2.4.~~

1770 ~~The Primary~~ State Highway System.

1771 **Drafting note: The organization of the existing Article 2, State Highway System, is**  
1772 **retained and is renamed Primary State Highway System per the naming conventions for**  
1773 **the title.**

1774 ~~§§ 33.1-24., 33.1-24.1.~~

1775 **Drafting note: Repealed by Acts 1977, c. 578.**

1776 § ~~33.1-25~~ 33.2-271. Primary state highway system ~~of state highways~~; "~~State Highway~~  
1777 ~~System~~" ~~construed~~.

1778 ~~Except as the same shall be changed as hereinafter provided, the~~ The roads and bridges  
1779 now comprising the State Highway System, ~~sometimes referred to~~ are also known as the  
1780 "primary system of state highways" ~~or the "primary state highway system," shall continue to~~  
1781 ~~constitute and be known as the State Highway System and the terms "State Highway System" or~~  
1782 ~~"primary system of state highways" when used elsewhere in this Code or in any other act or~~  
1783 ~~statute shall refer to and mean such State Highway System, sometimes called the primary~~  
1784 ~~system of state highways, as so constituted. The terms the "State Highway System" and the~~  
1785 ~~"primary system of state highways" or the "primary state highway system" shall not include the~~  
1786 secondary state highway system ~~of state highways~~. The ~~State Highway System~~ primary state  
1787 highway system shall be constructed and maintained by the ~~State Commonwealth~~ under the  
1788 direction and supervision of the ~~Commonwealth Transportation~~ Board and the Commissioner of  
1789 Highways.

1790 **Drafting note: Technical changes.**

1791 ~~§§ 33.1-26 through 33.1-30.~~

1792 **Drafting note: Repealed by Acts 2003, c. 302, cl. 2.**

1793 § ~~33.1-31~~ 33.2-272. Certain park roads highways in parks included in primary state  
1794 highway system.

1795 All ~~roads~~ highways in the several state parks providing connections between highways,  
1796 in either the primary or secondary highway systems, outside ~~of~~ such parks and ~~the~~ recreation  
1797 centers in such parks shall continue to be ~~and constitute~~ portions of the primary state highway  
1798 system ~~of state highways~~ and ~~as such shall~~ be constructed, reconstructed, improved, and  
1799 maintained as such.

1800 All ~~roads~~ highways, bridges, and toll facilities constructed ~~by way through the use~~ of  
1801 revenue bonds issued by the Department of Conservation and Recreation shall operate under the

1802 terms of their establishment as a park facility, notwithstanding the right of the Commissioner of  
1803 Highways to use highway funds to maintain them.

1804 **Drafting note: Technical changes.**

1805 § ~~33.1-32~~ 33.2-273. Maintenance of ~~roads~~ highways, bridges, and toll facilities within  
1806 ~~boundaries of~~ state parks.

1807 The Commissioner of Highways may maintain all ~~roads~~ highways, bridges, and toll  
1808 facilities ~~situated~~ within the boundaries of any state park ~~heretofore or hereafter~~ established by,  
1809 and under the control of, the Department of Conservation and Recreation. For the purpose of  
1810 maintaining the ~~roads~~ highways in any such park, the Commissioner of Highways may expend  
1811 funds under his control and available for expenditures upon the maintenance of ~~roads~~ highways  
1812 in the secondary state highway system ~~of state highways~~ in the county or counties in which such  
1813 state park is located. This section shall not affect the jurisdiction, control, and right to establish  
1814 such ~~roads~~ highways, bridges, and toll facilities ~~which that~~ are now vested in the Department of  
1815 Conservation and Recreation.

1816 **Drafting note: Technical changes.**

1817 § ~~33.1-33~~ 33.2-274. Maintenance of ~~roads~~ highways at state institutions.

1818 The Commissioner of Highways may, when requested by the governing body of a state  
1819 institution, assume the maintenance of any ~~road situated~~ highway within the grounds of such  
1820 state institution ~~which that~~ has heretofore been or is hereafter established and constructed by  
1821 such institution to standards acceptable to the Commissioner of Highways. Any such ~~roads~~  
1822 highways accepted for maintenance by the Commissioner of Highways under the provisions of  
1823 this section shall be a part of the ~~State Highway System~~ primary state highway system, but the  
1824 state institution shall continue to exercise police power over such ~~roads~~ highways.

1825 **Drafting note: Does this mean state institutions as defined in Title 23, i.e. higher**  
1826 **education? Technical changes.**

1827 § ~~33.1-34~~ 33.2-275. Transfer of ~~roads~~ highways, etc., from secondary to primary system;  
1828 additions to primary system.

1829 A. The ~~Commonwealth Transportation~~ Board may transfer such ~~roads, highways and~~  
1830 bridges ~~and streets~~ as the Board shall deem proper from the secondary state highway system ~~of~~  
1831 state highways to the primary state highway system ~~of state highways; upon. Upon~~ such transfer  
1832 the ~~roads, highways and~~ bridges ~~and streets~~ so transferred shall become for all purposes parts of  
1833 the primary state highway system ~~of state highways~~ and thereafter cease being parts of the  
1834 secondary state highway system ~~of state highways~~. The Board may add such ~~roads, highways~~  
1835 ~~and~~ bridges ~~and streets~~ as it shall deem proper to the primary state highway system. The total  
1836 mileage of such ~~roads, highways and~~ bridges ~~and streets~~ so transferred or added by the Board  
1837 shall not, however, exceed 50 miles during any one year.

1838 B. ~~In cases where~~ When the Chief Engineer of the Department ~~of Transportation~~  
1839 recommends that it is appropriate in connection with the completion of a construction or  
1840 maintenance project to transfer ~~roads, highways and~~ bridges ~~and streets~~ from the secondary  
1841 state highway system ~~of state highways~~ to the primary state highway system ~~of state highways~~,  
1842 the Commissioner of Highways may transfer such ~~roads, highways and~~ bridges ~~and streets~~ as  
1843 he deems proper. Upon such transfer, the ~~roads, highways and~~ bridges ~~and streets~~ so transferred  
1844 shall become, for all purposes, parts of the primary state highway system ~~of state highways and~~  
1845 ~~thereafter cease being parts of the secondary system of state highways~~.

1846 **Drafting note: Technical changes are made, including conforming definitions of**  
1847 **"roads, bridges, and streets" to "highways and bridges."**

1848 § ~~33.1-35~~ 33.2-276. Transfer of ~~roads highways~~, etc., from primary to secondary system.

1849 The ~~Commonwealth Transportation~~ Board may transfer such ~~roads, highways and~~  
1850 bridges ~~and streets~~ as the Board shall deem proper from the primary state highway system ~~of~~  
1851 state highways to the secondary state highway system ~~of state highways~~ or, if requested by the  
1852 local governing body, to the local system of roads operated by a locality receiving payments  
1853 pursuant to § ~~33.1-23.5-1~~ 33.2-XXX or ~~33.1-41.1; upon 33.2-XXX. Upon~~ such transfer, the  
1854 ~~roads, highways and~~ bridges ~~and streets~~ so transferred shall become for all purposes parts of the  
1855 secondary state highway system ~~of state highways~~ or the local system of roads operated by a

1856 locality receiving payments pursuant to § ~~33.1-23.5:1~~ 33.2-XXX or ~~33.1-41.1~~, and thereafter  
1857 ~~cease being parts of the primary system of state highways~~ 33.2-XXX. The total mileage of such  
1858 ~~roads, highways and~~ bridges ~~and streets~~ so transferred by the Board shall not, however, exceed  
1859 150 miles during any one year.

1860 In cases where the Chief Engineer of the Department ~~of Transportation~~ recommends that  
1861 it is appropriate in connection with the completion of a construction or maintenance project to  
1862 transfer ~~roads, highways and~~ bridges ~~and streets~~ from the primary state highway system ~~of state~~  
1863 ~~highways~~ to the secondary state highway system ~~of state highways~~, the Commissioner of  
1864 Highways may transfer such ~~roads, highways and~~ bridges ~~and streets~~ as he deems proper. Upon  
1865 such transfer, the ~~roads, highways and~~ bridges ~~and streets~~ so transferred shall become for all  
1866 purposes parts of the secondary state highway system ~~of state highways~~ and thereafter cease  
1867 being parts of the primary state highway system ~~of state highways~~.

1868 **Drafting note: Technical changes are made, including conforming definitions of**  
1869 **"roads, bridges, and streets" to "highways and bridges."**

1870 § ~~33.1-36~~ 33.2-277. Primary State Highway System Map.

1871 The Commissioner of Highways shall prepare and keep on file in his office for public  
1872 inspection a complete map showing the routes of the ~~State Highway System~~ primary state  
1873 highway system ~~located and~~ established in pursuance of the law.

1874 **Drafting note: Technical changes.**

1875 § ~~33.1-37~~ 33.2-278. Establishment, construction, and maintenance exclusively by  
1876 Commonwealth; funds.

1877 The ~~roads~~ highways embraced within ~~"The State Highway System"~~ the primary state  
1878 highway system shall be established, constructed, and maintained exclusively by the  
1879 Commonwealth under the direction and supervision of the Commissioner of Highways, with  
1880 such state funds as may hereafter be appropriated and made available for such purposes,  
1881 together with such appropriations as may be hereafter made by any county, district, city, or town  
1882 in ~~this~~ the Commonwealth and such funds as are now available or which may hereafter be

1883 | derived from the federal government for ~~road~~ highway building and improvement in ~~this the~~  
1884 | Commonwealth.

1885 | **Drafting note: Technical changes.**

1886 | ~~§ 33.1-38.~~

1887 | **Drafting note: Repealed by Acts 1977, c. 578.**

1888 | ~~§ 33.1-39~~ 33.2-279. Bypasses through or around cities and ~~incorporated~~ towns.

1889 | A. The Commissioner of Highways may acquire by gift, purchase, exchange,  
1890 | condemnation, or otherwise, such lands or interest therein, necessary or proper for the purpose,  
1891 | and may construct and improve thereon such bypasses or extensions ~~and or~~ connections of the  
1892 | primary state highway system ~~of state highways~~ through or around cities and ~~incorporated~~  
1893 | towns, as the Board may deem necessary for the uses of the State Highway System primary state  
1894 | highway system; provided, that the respective cities and ~~the incorporated~~ towns ~~of with~~  
1895 | populations of 3,500 ~~population~~, or more, by action of their governing bodies agree to  
1896 | participate in accordance with the provisions of ~~§ 33.1-44~~ 33.2-XXX in all costs of such  
1897 | construction and improvement, including the cost of rights-of-way, on that portion of any such  
1898 | bypass or extension ~~which that~~ is located within any such city or ~~incorporated~~ town. The  
1899 | maintenance of that portion of a bypass or extension located within a city or ~~incorporated~~ town  
1900 | shall be borne by the city or town. However, the Board shall contribute to such maintenance in  
1901 | accordance with the provisions of law governing its contribution to the maintenance of ~~streets,~~  
1902 | roads highways and bridges in such cities and ~~incorporated~~ towns. The location, form, and  
1903 | character of informational, regulatory, and warning signs, curb and pavement, or other markings  
1904 | and traffic signals installed or placed by any public authority shall be subject to the approval of  
1905 | the Commissioner of Highways. At both ends of bypasses through or around cities and  
1906 | ~~incorporated~~ towns, the Commissioner of Highways shall erect and maintain adequate  
1907 | directional signs of sufficient size and suitable design to indicate clearly the main route or routes  
1908 | leading directly into such cities and ~~incorporated~~ towns.

1909 B. Notwithstanding the ~~above provisions of subsection A~~, in any case ~~where in which~~ a  
1910 municipality refuses to contribute to the construction of a bypass or an extension or connection  
1911 of the primary state highway system within said municipality, the Commissioner of Highways  
1912 may construct such bypass or extension ~~and or~~ connection without any contribution by the  
1913 municipality when the Board determines that such bypass or extension ~~and or~~ connection is  
1914 primarily rural in character and that the most desirable and economical location is within ~~said~~  
1915 the municipality. Any bypass or extension ~~and or~~ connection built under this ~~provision~~  
1916 subsection shall be maintained by the Commissioner of Highways as a part of the primary state  
1917 highway system and the municipality shall receive no payment for such bypass or extension ~~and~~  
1918 or connection under § ~~33.1-41.1~~ 33.2-XXX.

1919 C. All the provisions of general law relating to the exercise of eminent domain by the  
1920 Commissioner of Highways shall be applicable to such bypasses, or extensions or connections  
1921 of the primary state highway system ~~of state highways~~.

1922 D. The Board may expend out of funds appropriated to the Board under § ~~33.1-23.1 A~~  
1923 ~~and B-1~~ 33.2-XXX such funds as may be necessary to carry out the provisions of this section.

1924 **Drafting note: Technical changes.**

1925 ~~§ 33.1-40.~~

1926 **Drafting note: Repealed by Acts 1977, c. 578.**

1927 ~~§ 33.1-41.~~

1928 **Drafting note: Repealed by Acts 1985, c. 42.**

1929 ~~§ 33.1-41.1~~ 33.2-280. Payments to cities and certain towns for maintenance of certain  
1930 highways.

1931 The Commissioner of Highways, subject to the approval of the ~~Commonwealth~~  
1932 Transportation Board, shall make payments for maintenance, construction, or reconstruction of  
1933 highways, ~~as hereinafter provided~~, to all cities and towns eligible for allocation of construction  
1934 funds for urban highways under § ~~33.1-23.3~~ 33.2-XXX. Such payments, however, shall only be  
1935 made if those highways functionally classified as principal and minor arterial roads are

1936 maintained to a standard satisfactory to the Department ~~of Transportation~~. Whenever any city or  
1937 town qualifies under this section for allocation of funds, such qualification shall continue to  
1938 apply to such city or town regardless of any subsequent change in population and shall cease to  
1939 apply only when so specifically provided by an act of the General Assembly. All allocations  
1940 made prior to July 1, 2001, to cities and towns meeting the criteria of the foregoing provisions  
1941 of this section are hereby confirmed.

1942 No payments shall be made to any such city or town unless the portion of the highway  
1943 for which such payment is made either ~~(a) (i)~~ has ~~(i) (a)~~ an unrestricted right-of-way at least 50  
1944 feet wide and ~~(ii) (b)~~ a hard-surface width of at least 30 feet; ~~or (b) (ii)~~ has ~~(i) (a)~~ an unrestricted  
1945 right-of-way at least 80 feet wide, ~~(ii) (b)~~ a hard-surface width of at least 24 feet, and ~~(iii) (c)~~  
1946 approved engineering plans for the ultimate construction of an additional hard-surface width of  
1947 at least 24 feet within the same right-of-way; ~~or (e) (i) (iii) (a)~~ is a cul-de-sac, ~~(ii) (b)~~ has an  
1948 unrestricted right-of-way at least 40 feet wide, and ~~(iii) (c)~~ has a turnaround that meets  
1949 applicable standards set by the Department ~~of Transportation~~; ~~or (d) (iv)~~ either ~~(i) (a)~~ has been  
1950 paved and has constituted part of the primary or secondary state highway systems ~~system of~~  
1951 state highways prior to annexation or incorporation or ~~(ii) (b)~~ has constituted part of the  
1952 secondary state highway ~~system of state highways~~ prior to annexation or incorporation and is  
1953 paved to a minimum width of 16 feet subsequent to such annexation or incorporation and with  
1954 the further exception of streets or portions thereof ~~which that~~ have previously been maintained  
1955 under the provisions of § ~~33.1-79~~ 33.2-XXX or § ~~33.1-82~~ 33.2-XXX; ~~or (e) (v)~~ was eligible for  
1956 and receiving such payments under the laws of the Commonwealth in effect on June 30, 1985;  
1957 ~~or (f) (vi)~~ is a street established prior to July 1, 1950, ~~which that~~ has an unrestricted right-of-way  
1958 width of not less than 30 feet and a hard-surface width of not less than 16 feet; ~~or (g) (vii)~~ is a  
1959 street functionally classified as a local street ~~and that was~~ constructed on or after January 1,  
1960 1996, ~~which and that~~ at the time of approval by the city or town met the criteria for pavement  
1961 width and right-of-way of the ~~then current edition of the subdivision street requirements manual~~  
1962 ~~for secondary roads of the Department of Transportation (24 VAC 30-90-10 et seq.)~~ applicable

1963 [state regulations concerning terms and conditions under which subdivision streets may be](#)  
1964 [accepted into the secondary state highway system in effect at the time;](#)~~(h)~~ (viii) is a street  
1965 previously eligible to receive street payments that is located in the City of Norfolk and the City  
1966 of Richmond and is closed to public travel, pursuant to legislation enacted by the ~~local~~  
1967 governing body of the ~~city~~ [locality](#) in which it is located, for public safety reasons, within the  
1968 boundaries of a publicly funded housing development owned and operated by the local housing  
1969 authority; or ~~(i)~~ (ix) is a local street, otherwise eligible, containing one or more physical  
1970 protuberances placed within the right-of-way for the purpose of controlling the speed of traffic.

1971 However, the Commissioner [of Highways](#) may waive the requirements as to hard-  
1972 surface pavement or right-of-way width for highways where the width modification is at the  
1973 request of the ~~local~~ governing body [of the locality](#) and is to protect the quality of the affected  
1974 local government's drinking water supply or, for highways constructed on or after July 1, 1994,  
1975 to accommodate some other special circumstance where such action would not compromise the  
1976 health, safety, or welfare of the public. The modification is subject to such conditions as the  
1977 Commissioner [of Highways](#) may prescribe.

1978 For the purpose of calculating allocations and making payments under this section, the  
1979 Department shall divide affected highways into two categories, which shall be distinct from but  
1980 based on functional classifications established by the Federal Highway Administration: ~~(i)~~ (1)  
1981 principal and minor arterial roads and ~~(ii)~~ (2) collector roads and local streets. Payments made to  
1982 affected localities shall be based on the number of moving-lane-miles of highways or portions  
1983 thereof available to peak-hour traffic in that locality.

1984 The Department ~~of Transportation~~ shall recommend to the ~~Commonwealth~~  
1985 [Transportation](#) Board an annual rate per category to be computed using the base rate of growth  
1986 planned for the Department's Highway Maintenance and Operations program. The Board shall  
1987 establish the annual rates of such payments as part of its allocation for such purpose, and the  
1988 Department ~~of Transportation~~ shall use those rates to calculate and put into effect annual  
1989 changes in each qualifying city's or town's payment under this section.

1990           The payments by the Department shall be paid in equal sums in each quarter of the fiscal  
1991 year, and payments shall not exceed the allocation of the Board.

1992           The chief administrative officer of the city or town receiving this fund shall make annual  
1993 categorical reports of expenditures to the Department, in such form as the Board shall prescribe,  
1994 accounting for all expenditures, certifying that none of the money received has been expended  
1995 for other than maintenance, construction, or reconstruction of the streets, and reporting on their  
1996 performance as specified in subdivision ~~B-3 X~~ of § ~~33.1-23.02 33.2-XXX~~. Such reports shall be  
1997 included in the scope of the annual audit of each municipality conducted by independent  
1998 certified public accountants.

1999           **Drafting note: Regulations for acceptance of subdivision streets into the secondary**  
2000 **system have been updated with more generic and up-to-date language from the**  
2001 **Department of Transportation. Other changes are technical.**

2002           § ~~33.1-42 33.2-281~~. Incorporation into ~~State Highway System primary state highway~~  
2003 ~~system~~ of connecting streets and ~~roads highways~~ in certain other ~~towns and~~ cities ~~and towns~~;  
2004 maintenance, etc., costs.

2005           The ~~Commonwealth Transportation~~ Board may, by and with the consent of the Governor  
2006 and the governing body of any ~~incorporated town or~~ city ~~or town~~ having a population of 3,500  
2007 ~~inhabitants~~ or less, incorporate in the ~~State Highway System primary state highway system~~ such  
2008 streets and ~~roads highways~~ or portions thereof in such ~~incorporated town or~~ city ~~or town~~ as may  
2009 in its judgment be best for the handling of traffic through such ~~town or~~ city ~~or town~~ from or to  
2010 any ~~road highway~~ in the ~~State Highway System primary state highway system~~ and may, in its  
2011 discretion, eliminate any of such ~~roads or streets highways~~ or portions thereof from the ~~State~~  
2012 ~~Highway System primary state highway system~~. Every such action of the ~~Commonwealth~~  
2013 ~~Transportation~~ Board incorporating any such ~~road or~~ street ~~or highway~~ or portion thereof in the  
2014 ~~State Highway System primary state highway system~~ or eliminating it therefrom, shall be  
2015 recorded in its minutes.

2016 Any such ~~road or~~ street or highway or portion thereof in any such city or town so  
2017 incorporated in the ~~State Highway System~~ primary state highway system shall be subject to the  
2018 rules, regulations, and control of the state ~~road~~ highway authorities as are other ~~roads~~ highways  
2019 in the ~~State Highway System~~ primary state highway system. But such city or town ~~or city~~ shall  
2020 be obligated to pay the maintenance ~~and~~, construction, and reconstruction costs of such ~~roads or~~  
2021 streets highways or portions thereof so incorporated in the ~~State Highway System~~ primary state  
2022 highway system in excess of the amounts authorized to be spent by the Commissioner of  
2023 Highways on such ~~roads or streets~~ highways.

2024 ~~Every provision in the charter of any such town or city insofar as it is in conflict with~~  
2025 ~~this section is hereby repealed.~~

2026 The Commissioner of Highways may in his discretion permit such city or town ~~or city~~ to  
2027 maintain any such ~~road or street~~ highway, or portion thereof, incorporated in the ~~State Highway~~  
2028 ~~System~~ primary state highway system, and reimburse such city or town up to such amount as he  
2029 is authorized to expend on the maintenance of such ~~road or street,~~ highway or portion thereof.

2030 **Drafting note: References to roads in this section refer to those already within the**  
2031 **primary system and so are amended to be called highways. References to city or town**  
2032 **streets that may be incorporated into the primary system are retained as streets.**  
2033 **References to eliminating highways from the primary system refer only to highways, as**  
2034 **they are already in the primary system. The penultimate paragraph would appear to be an**  
2035 **unconstitutional "repeal by reference."**

2036 **Drafting note: Technical changes.**

2037 ~~§§ 33.1-43., 33.1-43.1.~~

2038 **Drafting note: Repealed by Acts 1985, c. 42.**

2039 ~~§ 33.1-43.2~~ 33.2-282. Minimum ~~road street and highway~~ standards for certain towns.

2040 Notwithstanding ~~any other the~~ provisions of § ~~33.1-43,~~ § ~~33.1-80 or~~ § ~~33.1-82~~ 33.2-  
2041 XXX, any ~~incorporated~~ town in which ~~seventy per centum~~ 70 percent or more of developable  
2042 land within its boundaries has a natural grade of ~~twenty per centum~~ 20 percent or more may by

2043 ordinance provide for streets or ~~roads~~ highways established on or after July 1, 1980, with an  
2044 unrestricted right-of-way width of not less than ~~forty~~ 40 feet and a ~~hard-surface~~ hard-surface  
2045 width of not less than ~~eighteen~~ 18 feet; provided, however, no such requirement of any such  
2046 town shall be less stringent than that of the county in which such town is located. Streets and  
2047 ~~roads~~ highways so established and constructed shall be eligible for payment in accordance with  
2048 §§ ~~33.1-43, 33.1-80 and 33.1-82~~ § 33.2-XXX.

2049 **Drafting note: Existing sections 33.1-43 and 33.1-80 have both been repealed; only**  
2050 **the reference to existing 33.1-82 remains. Technical changes are also made.**

2051 § ~~33.1-44~~ 33.2-283. Matching highway funds; funding of urban system construction  
2052 projects, generally.

2053 In any case in which an act of Congress requires that federal-aid highway funds made  
2054 available for the construction or improvement of federal or state highways be matched, the  
2055 ~~Commonwealth Transportation~~ Board shall contribute such matching funds. However, in the  
2056 case of municipalities with a population of 3,500 or more ~~population~~ eligible for an allocation of  
2057 construction funds for urban highways under § ~~33.1-23.3~~ 33.2-XXX and the Town of Wise, the  
2058 Town of Lebanon, and the Town of Altavista, the Board may contribute toward the cost of  
2059 construction of any federal-aid highway or street project ~~ninety-eight~~ 98 percent of the  
2060 necessary funds, including the federal portion, if the municipality contributes the other two  
2061 percent, and provided further, that within such municipalities the Board may contribute all the  
2062 required funds on highways in the ~~interstate-system~~ Interstate System.

2063 In the case of municipalities with a population of 3,500 or more ~~population~~ eligible for  
2064 an allocation of construction funds for urban highways under § ~~33.1-23.3~~ 33.2-XXX and the  
2065 Town of Wise, the Town of Lebanon, and the Town of Altavista, the ~~Commonwealth~~  
2066 ~~Transportation~~ Board may contribute toward the costs of construction or improvement of any  
2067 highway or street project for which no federal-aid highway funds are made available ~~ninety-~~  
2068 ~~eight~~ 98 percent of the necessary funds if the municipality contributes the other two percent.

2069 For purposes of matching highway funds, such contributions shall continue to apply to  
2070 such municipality regardless of any subsequent change in population and shall cease to apply  
2071 only when so specifically provided by an act of the General Assembly. All actions taken prior to  
2072 July 1, 2001, by municipalities meeting the criteria of the foregoing provisions of this section  
2073 are hereby confirmed.

2074 In the case of municipalities with a population of less than 3,500 ~~in population~~ that on  
2075 June 30, 1985, maintained certain streets under § ~~33.1-80~~ 33.2-XXX as then in effect, the  
2076 ~~Commonwealth Transportation~~ Board shall contribute toward the costs of construction or  
2077 improvement of any highway or street project 100 percent of the necessary funds. The  
2078 contribution authorized by this paragraph shall be in addition to any other contribution, and  
2079 projects established in reference to municipalities with a population of less than 3,500 ~~in~~  
2080 ~~population~~ shall not in any way be interpreted to change any other formula or manner for the  
2081 distribution of funds to such municipalities for construction, improvement, or maintenance of  
2082 highways or streets. The Board may accept from a municipality, for right-of-way purposes,  
2083 contributions of real estate to be credited, at fair market value, against the matching obligation  
2084 of such municipality under the provisions of this section.

2085 ~~The term~~ For purposes of this section, "construction or improvement" means the  
2086 supervising, inspecting, actual building, and all expenses incidental to the construction or  
2087 reconstruction of a highway, including locating, surveying, design and mapping, costs of rights-  
2088 of-way, signs, signals and markings, elimination of hazards of railroad grade crossings, and  
2089 expenses incidental to the relocation of any utility or its facilities owned by a municipality or by  
2090 a public utility district or public utility authority.

2091 If any municipality requesting ~~such~~ Commonwealth Transportation ~~the~~ Board  
2092 contribution subsequently decides to cancel ~~such~~ the construction or improvement after the  
2093 Board has initiated the project at the request of the municipality, ~~such~~ the municipality shall  
2094 reimburse the Board the net amount of all funds expended by the Board for planning,  
2095 engineering, right-of-way acquisition, demolition, relocation, and construction between the date

2096 of initiation by the municipality and the date of cancellation. The Board shall have the authority  
2097 to waive all or any portions of ~~such the~~ reimbursement at its discretion.

2098 For purposes of this section, on any construction or improvement project in the Cities of  
2099 Chesapeake, Hampton, Newport News, or Richmond and funded in accordance with subdivision  
2100 ~~2 of subsection B X~~ of § ~~33.1-23.1 33.2-XXX~~, the additional cost ~~for of~~ placing aboveground  
2101 utilities below ground may be paid from funds allocated for that project. The maximum cost due  
2102 to this action shall not exceed ~~five \$5 million-dollars~~. Nothing contained ~~herein in this paragraph~~  
2103 shall relieve utility owners of their responsibilities and costs associated with the relocation of  
2104 their facilities when required to accommodate a construction or improvement project.

2105 **Drafting note: Technical changes.**

2106 ~~§ 33.1-45.~~

2107 **Drafting note: Repealed by Acts 1985, c. 42.**

2108 ~~§ 33.1-46 33.2-284.~~ Character of signs, etc., in event of matching public funds.

2109 On any urban highway upon which the Board has expended funds in the manner  
2110 provided in ~~§§ 33.1-23.3 and 33.1-44 § 33.2-XXX~~, the location, form, and character of  
2111 informational, regulatory, and warning signs, curb and pavement, or other markings and traffic  
2112 signals installed or placed by any public authority shall be subject to the approval of the  
2113 Commissioner of Highways.

2114 **Drafting note: Technical changes.**

2115 ~~§ 33.1-46.1 33.2-285.~~ Highway aid to mass transit.

2116 In allocating highway funds the ~~Commonwealth Transportation~~ Board may use such  
2117 funds for highway aid to mass transit facilities when such use will best accomplish the purpose  
2118 of serving the transportation needs of the greatest number of people.

2119 Highway aid to mass transit may be accomplished (i) by using highway funds to aid in  
2120 paying transit operating costs borne by localities ~~and/or~~; (ii) by acquisition or construction of  
2121 transit-related highway facilities such as exclusive bus lanes; bus turn-outs; bus passenger  
2122 shelters; fringe parking facilities, including necessary access roads, to promote transit use and

2123 relieve highway congestion; and off-street parking facilities to permit exclusive use of curb lane  
2124 by buses, ~~and; or (iii)~~ by permitting mass transit facilities to occupy highway median strips  
2125 without the reimbursement required by § ~~33.1-97~~ 33.2-XXX, all to the end that highway traffic  
2126 may be relieved through the development of more efficient mass transit.

2127 Expenditures of funds under ~~the authority of~~ this section shall be made from funds  
2128 available for the construction of state highways within the highway construction district in  
2129 which the transit facilities are wholly or partly located.

2130 The Board may ~~at its discretion~~ contract with the governing bodies comprising a  
2131 transportation district, or in its discretion, other local governing bodies, for the accomplishment  
2132 of a project to which funds have been allocated under the provisions of this section. Whenever  
2133 such projects are being financed by advance annual allocation of funds, the Board may make  
2134 such funds available to the contracting governing bodies in annual increments ~~which that~~  
2135 be used for other transit purposes until needed for the project for which allocated; however, the  
2136 Board may require bond or other satisfactory assurance of final completion of the contract.

2137 The Board may also, at the request of local governing bodies, use funds allocated for  
2138 urban highways or secondary ~~roads~~ highways within their jurisdiction to accomplish the  
2139 purposes of this section.

2140 The General Assembly may, through the general appropriation act, (i) provide for limits  
2141 on the amounts or purposes of allocations made under this section and (ii) provide for the  
2142 transfer of allocations from one eligible recipient to another.

2143 **Drafting note: Technical changes.**

2144 § ~~33.1-46.3~~ 33.2-286. Agreements between Commonwealth Transportation Board and  
2145 certain counties for operation of certain devices on state highways.

2146 The Commissioner of Highways is empowered to enter into agreements with the  
2147 governing bodies of Arlington and Henrico Counties, upon such terms as may be agreeable  
2148 between the parties, in order to authorize such counties to install, maintain, and control traffic  
2149 signals, parking meters, lane-use control signals, and other traffic control devices at specific

2150 locations on the ~~state primary or secondary state highway~~ systems ~~of highways~~ within such  
2151 counties. Such counties and the Commissioner shall have the authority to do all things ~~which are~~  
2152 reasonable or convenient to effectuate the purposes of this section.

2153 **Drafting note: Technical changes.**

2154 § ~~33.1-46.4~~ 33.2-287. Counties may perform certain maintenance.

2155 Any county may enter into an agreement with the Department ~~of Transportation~~ to  
2156 permit the county to landscape and maintain any or all medians and other nontraveled portions  
2157 of primary ~~roads~~ system highways located in the county.

2158 **Drafting note: Technical changes.**

2159 § ~~33.1-47~~ 33.2-288. Approval of markings and traffic lights erected by towns.

2160 Notwithstanding any provision of law contrary to this section, all markings and traffic  
2161 lights installed or erected by towns on the primary ~~roads~~ system highways therein maintained by  
2162 the Department ~~of Transportation~~ shall first be approved by the Commissioner.

2163 **Drafting note: Technical changes.**

2164 § ~~33.1-47.1~~ 33.2-289. Landscape studies for urban highway construction projects.

2165 Prior to final design of any urban highway funded in part by any municipality, such  
2166 municipality may have conducted a landscape study by a competent authority ~~which that~~ shall  
2167 assess the effect such proposed highway construction may have on existing trees, shrubbery, and  
2168 other flora and shall make recommendations as to modifications to such project ~~which that~~  
2169 would minimize damage to existing flora. The Department ~~of Transportation~~ shall consider such  
2170 recommendations and modify such highway construction plans to protect trees, shrubbery, and  
2171 other flora if determined by the Department to be reasonable and practicable. The cost of such  
2172 landscape study shall be payable by the municipality ~~which that~~ initiates such ~~statement study~~.

2173 **Drafting note: Technical changes.**

2174 Article ~~3~~ 5.

2175 ~~The~~ Interstate System.

2176           **Drafting note: Existing Article 3 of Chapter 1 is relocated as proposed Article 5 of**  
2177 **Chapter 2.**

2178           § ~~33.1-48~~ 33.2-290. Interstate System authorized; ~~what constitutes~~.

2179           ~~There is hereby authorized a system of interstate highways to constitute a part of the~~  
2180 ~~National System of Interstate and Defense Highways as authorized and designated in~~  
2181 ~~accordance with § 7 of the Federal Aid Highway Act of 1944 and § 108(a) of the Federal Aid~~  
2182 ~~Highway Act of 1956, hereinafter referred to as "Interstate System."~~

2183           The Interstate System, ~~as used in this article and elsewhere in the Code of Virginia, shall~~  
2184 ~~be is~~ those highways, or sections thereof, declared by resolution of the ~~Commonwealth~~  
2185 ~~Transportation~~ Board to be portions of the Interstate System, and may include existing highways  
2186 and streets, even though established as turnpikes, toll projects, revenue bond projects, or streets  
2187 of cities and towns.

2188           **Drafting note: The existing definition of the Interstate System is stricken and**  
2189 **relocated to proposed definitions section § 33.2-100. Technical changes are made.**

2190           § ~~33.1-49~~ 33.2-291. Power and authority of Commonwealth Transportation Board  
2191 relating to the Interstate System, generally.

2192           The ~~Commonwealth Transportation~~ Board may plan, designate, acquire, open, construct,  
2193 reconstruct, improve, maintain, discontinue, abandon, and regulate the use of the Interstate  
2194 System in the same manner in which it is now or may be authorized to plan, designate, acquire,  
2195 open, construct, reconstruct, improve, maintain, discontinue, abandon, and regulate the use of  
2196 the primary system of state highways. The Board may vacate, close, or change the location of  
2197 any street or public way in the manner in which it is now authorized by law to vacate, close, or  
2198 change the location of a highway in the primary system. The Board shall have any and all other  
2199 authority and power relative to such Interstate System as is vested in it relative to highways in  
2200 the primary system and shall include the right to acquire by purchase, eminent domain, grant, or  
2201 dedication title to lands or rights-of-way for such interstate highways whether within or without  
2202 the limits of any city or town, and in addition thereto, shall have such other power, control, and

2203 jurisdiction necessary to comply with the provisions of the Federal-Aid Highway Act of 1956  
2204 and all acts amendatory or supplementary thereto, ~~all other provisions of law to the contrary~~  
2205 ~~notwithstanding~~.

2206 **Drafting note: The final phrase in the last paragraph appears to be an**  
2207 **unconstitutional "repeal by reference" (see Virginia Constitution, Article IV, sec. 12).**

2208 **Technical changes are made.**

2209 § ~~33.1-49.1~~ 33.2-292. Contracts for maintenance of components of Interstate ~~Highway~~  
2210 System.

2211 All maintenance on components of the Interstate ~~Highway~~ System ~~in Virginia~~, excluding  
2212 frontage roads, shall be carried out under contracts awarded by the Commissioner of Highways  
2213 or the ~~Commonwealth Transportation~~ Board pursuant to § ~~33.1-12~~ 33.2-XXX, except for  
2214 instances where good and sufficient reasons for not doing so shall have been shown in advance  
2215 in writing by the Commissioner of Highways to the ~~Commonwealth Transportation~~ Board and  
2216 to the chairmen of the House Committee on Transportation, the House Committee on  
2217 Appropriations, the House Committee on Finance, the Senate Committee on Transportation, and  
2218 the Senate Committee on Finance. Nothing in this section shall be construed to prevent the  
2219 ~~Virginia Department of Transportation~~ from performing emergency work at any time on the  
2220 Interstate System with its own employees or agents or to assume the maintenance  
2221 responsibilities of a contractor who has been determined to be in default or as a result of a  
2222 contract termination.

2223 **Drafting note: Technical changes.**

2224 § ~~33.1-50~~ 33.2-293. Funds for establishment and maintenance of Interstate System,  
2225 generally.

2226 The ~~roads~~ highways embraced within the Interstate System shall be established,  
2227 constructed, and maintained by the Commonwealth under the direction and supervision of the  
2228 Commissioner with such state funds as may hereafter be appropriated and made available for  
2229 such purposes, together with such appropriations as may hereafter be made by any ~~county, city~~

2230 ~~or town locality~~ in ~~this the~~ Commonwealth and such funds as are now available or which may  
2231 hereafter be derived from the federal government for such purposes. State funds for repayment  
2232 of federal construction advances may be raised by toll facilities, if approved by the Federal  
2233 Highway Administration.

2234 **Drafting note: Technical changes.**

2235 § ~~33.1-51~~ 33.2-294. Portions of Interstate System within cities and towns.

2236 Whenever any portion of the Interstate System ~~which that~~ is to be constructed within  
2237 cities or towns is to occupy existing streets, the right-of-way in the street shall be occupied by  
2238 the Interstate System free of cost of the Commonwealth.

2239 When the Interstate System extending into or through cities or towns has been  
2240 constructed to the required standards, streets or ~~roads~~ highways occupied thereby, shall cease to  
2241 be maintained and controlled by the governing bodies of such cities or towns, and such cities  
2242 and towns shall thereafter be relieved from all civil liability arising from the physical condition  
2243 of such streets or ~~roads~~ highways. Such streets and ~~roads~~ highways shall not be considered as  
2244 mileage for which the ~~Commonwealth Transportation~~ Board is required to make payment to  
2245 such cities or towns by any other ~~provisions~~ provision of law.

2246 Nothing contained in this article shall relieve the cities or towns through which any  
2247 portion of the Interstate System is projected from the responsibility for the preservation of  
2248 public peace, prevention of crime, apprehension of criminals, protection of the rights of persons  
2249 and property, and enforcement of the laws of the Commonwealth, and the ~~rules and~~ regulations  
2250 enacted pursuant thereto, nor shall anything contained herein be considered as a waiver by the  
2251 Commonwealth of its immunity from liability for tort.

2252 **Drafting note: Technical changes are made, including conforming definitions of**  
2253 **"streets and roads" to "streets and highways" and changing "rules and regulations" to**  
2254 **"regulations" per recommendation of the Code Commission.**

2255 § ~~33.1-52~~ 33.2-295. Transfer of ~~roads, etc.,~~ highways and bridges from the secondary  
2256 and primary state highway systems to Interstate System.

2257           The ~~Commonwealth Transportation~~ Board may transfer such ~~roads, highways and~~  
2258 bridges ~~and streets~~ as the Board shall deem proper from the primary or secondary ~~or primary~~  
2259 state highway system ~~of state highways~~ to the Interstate System ~~of State Highways~~. Upon such  
2260 transfer the ~~roads, highways and~~ bridges ~~and streets~~ so transferred shall become for all purposes  
2261 parts of the Interstate System ~~of State Highways~~ and thereafter cease being parts of the primary  
2262 or secondary ~~or primary state highway~~ system ~~of state highways~~. The Board may add such  
2263 ~~roads, highways and~~ bridges ~~and streets~~ as it deems proper to the Interstate System without  
2264 limitations as to mileage.

2265           **Drafting note: Technical changes are made, including conforming definitions of**  
2266 **"roads, bridges, and streets," to "highways and bridges."**

2267           § ~~33.1-53~~ 33.2-296. Transfer of ~~roads, etc., highways and bridges~~ from Interstate System  
2268 to primary or secondary ~~or primary state highway~~ system.

2269           The ~~Commonwealth Transportation~~ Board may transfer such ~~roads, highways and~~  
2270 bridges ~~and streets~~ as the Board shall deem proper from the Interstate System ~~of State Highways~~  
2271 to the primary ~~system~~ or secondary state highway system ~~of state highways~~ without limitations  
2272 as to mileage; upon such transfer, the ~~roads, highways and~~ bridges ~~and streets~~ so transferred  
2273 shall become for all purposes parts of the primary ~~system~~ or secondary state highway system ~~of~~  
2274 state highways and thereafter cease being parts of the Interstate System ~~of State Highways~~.

2275           **Drafting note: Technical changes are made, including conforming definitions of**  
2276 **"roads, bridges, and streets" to "highways and bridges."**

2277           § ~~33.1-54~~ 33.2-297. Applicability of §§ ~~33.1-49~~ 33.2-XXX through ~~33.1-53~~ 33.2-XXX,  
2278 to toll projects.

2279           The provisions of §§ ~~33.1-49 to 33.1-53, inclusive, of this article~~ 33.2-XXX through  
2280 33.2-XXX shall not become effective with respect to those segments of the Interstate System  
2281 constructed and financed as toll projects until the revenue bonds and the interest thereon issued  
2282 on account of said toll projects shall have been paid or a sufficient amount for the payment of all  
2283 such bonds and the interest to maturity thereon shall have been set aside in trust for the benefit

2284 of the respective bondholders. When the bonds and interest thereon, outstanding on account of  
2285 such projects, shall have been paid or a sufficient amount for the payment of such bonds and the  
2286 interest thereon to the maturity thereof shall have been so set aside in trust, and when the  
2287 ~~Commonwealth Transportation~~ Board shall have by formal action, recorded in its minutes,  
2288 determined the existence of such fact, then and in such event, the provisions of ~~this article §§~~  
2289 33.2-XXX through 33.2-XXX shall fully apply to such projects.

2290 **Drafting note: Technical changes.**

2291 § ~~33.1-55~~ 33.2-298. Relocation or removal of utility facilities within projects on  
2292 Interstate System.

2293 For the purposes of this section:

2294 "Cost of highway construction" includes the cost of relocating or removing utility  
2295 facilities in connection with any project on the Interstate System within cities or towns.

2296 "Cost of relocation or removal" includes the entire amount paid by such utility properly  
2297 attributable to such relocation or removal after deducting therefrom any increase in the value of  
2298 the new facility and any salvage value derived from the old facility.

2299 "Facility of a utility" includes tracks, pipes, mains, conduits, cables, wires, towers, or  
2300 other structures, equipment, and appliances.

2301 "Utility" includes publicly, privately, and cooperatively owned utilities.

2302 Whenever the Board shall determine that it is necessary that any ~~tracks, pipes, mains,~~  
2303 ~~conduits, cables, wires, towers, or other structures, equipment, and appliances (herein called~~  
2304 ~~"facilities")~~ facility of any utility ~~as herein defined,~~ in, on, under, over, or along existing streets  
2305 ~~which that~~ are to be included within any project on the Interstate System within cities or towns  
2306 should be relocated or removed, the owner or operator of such ~~facilities~~ facility shall relocate or  
2307 remove the same in accordance with the order of the Board. The cost of such relocation or  
2308 removal, as herein defined, including the cost of installing such ~~facilities~~ facility in a new  
2309 location or locations, and the cost of any lands, or any rights or interest in lands, and any other

2310 rights, required to accomplish such relocation or removal, shall be ascertained and paid by the  
2311 Board as a part of the cost of such project.

2312 ~~For the purposes of this section, the term "utility" shall include publicly, privately, and~~  
2313 ~~cooperatively owned utilities and the term "cost of relocation or removal" shall include the~~  
2314 ~~entire amount paid by such utility properly attributable to such relocation or removal after~~  
2315 ~~deducting therefrom any increase in the value of the new facility and any salvage value derived~~  
2316 ~~from the old facility.~~

2317 ~~The cost of relocating or removing utility facilities in connection with any project on the~~  
2318 ~~Interstate System within cities or towns is hereby declared to be a cost of highway construction.~~

2319 **Drafting note: Definitions are moved from the content of the section to the**  
2320 **beginning of the section, in keeping with current practice. Technical changes are made.**

2321 ~~§ 33.1-56~~ 33.2-299. Relocation or removal of utility facilities within projects on  
2322 ~~interstate system~~ Interstate System; additional provisions.

2323 For the purposes of this section:

2324 "Cost of highway construction" includes the cost of relocating or removing utility  
2325 facilities in connection with any project on the Interstate System or primary state highway  
2326 system within counties.

2327 "Cost of relocation or removal" includes the entire amount paid for the relocation or  
2328 removal of such utility facilities properly attributable to such relocation or removal after  
2329 deducting therefrom any increase in the value of the new facility and any salvage value derived  
2330 from the old facility.

2331 "Facility of a utility" includes pipes, mains, storm sewers, water lines, sanitary sewers,  
2332 natural gas facilities, or other structures, equipment, and appliances.

2333 Whenever the Board determines that it is necessary to relocate or remove any ~~pipes,~~  
2334 ~~mains, storm sewers, water lines, sanitary sewers, natural gas facilities, or other structures,~~  
2335 ~~equipment, and appliances (herein called facilities)~~ facility of any utility owned by (i) a county,  
2336 (ii) a political subdivision of the Commonwealth or county, or (iii) a nonprofit, consumer-owned

2337 company, located in a county having a population of at least 32,000 but no more than 34,000,  
2338 that (a) is exempt from income taxation under § 501(c)(3) of the Internal Revenue Code, (b) is  
2339 organized to provide suitable drinking water, (c) has no assistance from investors, (d) does not  
2340 pay dividends, and (e) does not sell stock to the general public, or storm sewers, water lines,  
2341 natural gas facilities, or sanitary sewers owned by a city and extending into any county, in, on,  
2342 under, over, or along existing highways ~~which that~~ are to be included within any project on the  
2343 ~~interstate system~~ Interstate System or ~~the~~ primary state highway system within any county, the  
2344 county or political subdivision of the Commonwealth or county, consumer-owned company, or  
2345 city, as the case may be, shall relocate or remove the same in accordance with the order of the  
2346 Board. The cost of such relocation or removal, as herein defined, including the cost of installing  
2347 such ~~facilities~~ facility in a new location or locations, and the cost of any lands, or any rights or  
2348 interest in lands, and any other rights, required to accomplish such relocation or removal, shall  
2349 be ascertained and paid by the Board as a part of the cost of such project.

2350 ~~For the purposes of this section, the term "cost of relocation or removal" shall include~~  
2351 ~~the entire amount paid for the relocation or removal of such utility facilities properly attributable~~  
2352 ~~to such relocation or removal after deducting therefrom any increase in the value of the new~~  
2353 ~~facility and any salvage value derived from the old facility.~~

2354 ~~The cost of relocating or removing such utility facilities in connection with any project~~  
2355 ~~on the interstate system or primary system within counties is hereby declared to be a cost of~~  
2356 ~~highway construction.~~

2357 **Drafting note: Definitions are moved from the content of the section to the**  
2358 **beginning of the section, in keeping with current practice. Technical changes are made.**

2359 ~~Article 3.1.~~

2360 ~~High Occupancy Toll Lanes.~~

2361 **Drafting note: This article is relocated to proposed Article 8 of Chapter 2, which**  
2362 **combines HOV Lanes and HOT Lanes.**

2363 ~~Article 6.~~

2364 Secondary State Highway System ~~of State Highways~~.

2365 **Drafting note: This article is renamed to be consistent with terminology used**  
2366 **throughout this title.**

2367 § ~~33.1-67~~ 33.2-300. Secondary state highway system ~~of highways~~.

2368 The secondary state highway system ~~of state highways~~ shall consist of all of the public  
2369 roads highways, causeways, bridges, landings, and wharves in the several counties of the  
2370 Commonwealth not included in the ~~State Highway System~~ primary state highway system,  
2371 including such ~~roads highways~~ and community roads leading to and from public school  
2372 buildings, streets, causeways, bridges, landings, and wharves in incorporated towns having a  
2373 population of 3,500 ~~inhabitants~~ or less according to the United States census of 1920, and in all  
2374 towns having such a population incorporated since 1920, as constitute connecting links between  
2375 roads highways in the secondary system in the several counties and between ~~roads highways~~ in  
2376 the secondary system and ~~roads highways~~ in the primary state highway system ~~of the state~~  
2377 highways, not, however, to exceed two miles in any one town. If in any such town, ~~which that~~ is  
2378 partly surrounded by water, less than two miles of the ~~roads highways~~ and streets therein  
2379 constitute parts of the secondary state highway system ~~of state highways~~, the ~~Commonwealth~~  
2380 Transportation Board shall, upon the adoption of a resolution by the ~~council or other~~ governing  
2381 body of such town designating for inclusion in the secondary state highway system ~~of state~~  
2382 highways certain ~~roads highways~~ and streets in such town not to exceed a distance of two miles,  
2383 less the length of such ~~roads highways~~ and streets in such town ~~which that~~ constitute parts of the  
2384 secondary state highway system ~~of state highways~~, accept and place in the secondary state  
2385 highway system ~~of state highways~~ such additional ~~roads highways~~ and streets.

2386 **Drafting note: Technical changes.**

2387 § ~~33.1-68~~ 33.2-301. Certain school roads in secondary system.

2388 All roads leading from the state highways, either primary or secondary, to public schools  
2389 in the counties of the Commonwealth to which school buses are operated shall continue to

2390 constitute portions of the secondary state highway system ~~of state highways~~ insofar as these  
2391 roads lead to or are on school property and as such shall be improved and maintained.

2392 **Drafting note: Technical changes.**

2393 § ~~33.1-69~~ 33.2-302. Control, supervision, and management of secondary state highway  
2394 system components.

2395 A. The control, supervision, management, and jurisdiction over the secondary state  
2396 highway system ~~of state highways~~ shall be vested in the Department ~~of Transportation~~, and the  
2397 maintenance and improvement, including construction and reconstruction, of such secondary  
2398 state highway system ~~of state highways~~ shall be by the Commonwealth under the supervision of  
2399 the Commissioner of Highways. The boards of supervisors or other governing bodies of the  
2400 several counties ~~and the county road board or county road commission of any county operating~~  
2401 ~~under a county road board or county road commission~~ shall have no control, supervision,  
2402 management, and jurisdiction over such public ~~roads~~ highways, causeways, bridges, landings,  
2403 and wharves, constituting the secondary state highway system ~~of state highways~~. Except as  
2404 otherwise provided in this article, the ~~Commonwealth Transportation~~ Board shall be vested with  
2405 the same powers, control, and jurisdiction over the secondary state highway system ~~of state~~  
2406 ~~highways~~ in the several counties and towns of the Commonwealth, and such additions as may  
2407 be made from time to time, as were vested in the boards of supervisors or other governing  
2408 bodies of the several counties ~~or in the county road board or county road commission in any~~  
2409 ~~county operating under a county road board or county road commission on June 21, 1932~~, and  
2410 in addition thereto shall be vested with the same power, authority, and control as to the  
2411 secondary state highway system ~~of state highways~~ as is vested in the Board in connection with  
2412 the ~~State Highway System~~ primary state highway system.

2413 B. Nothing in this chapter shall be construed as requiring the Department, when  
2414 undertaking improvements to any ~~state~~ state highway system component or any  
2415 portion of any such component, to fully reconstruct such component or portion thereof to bring

2416 it into compliance with all design and engineering standards that would be applicable to such  
2417 component or portion thereof if the project involved new construction.

2418 **Drafting note: We are unable to find any still existing county road boards or county**  
2419 **road commissions, so such references are stricken as obsolete. Technical changes are**  
2420 **made.**

2421 § ~~33.1-69.001~~ 33.2-303. Design standards for ~~state~~ secondary state highway system  
2422 components.

2423 For urban and urban development areas in ~~jurisdictions~~ localities using the urban county  
2424 executive form of government, the ~~Virginia~~ Department of Transportation shall work in  
2425 conjunction with the ~~jurisdiction~~ locality and the Department of Rail and Public Transportation  
2426 to review new design standards for ~~state~~ secondary state highway system components that the  
2427 jurisdiction locality proposes. Such standards shall (i) be based on the American Association of  
2428 State Highway and Transportation Officials (AASHTO) ~~A Policy on Geometric Design of~~  
2429 Highways and Streets policies relating to highway and street design and other publications  
2430 applicable to urban areas; (ii) set forth a design methodology that should be used in the affected  
2431 urban and urban development areas; (iii) allow for the efficient movement of transit and other  
2432 vehicles through these areas; (iv) accommodate safe pedestrian and bicyclist movement; (v)  
2433 accommodate high density urban development; (vi) encourage user-friendly access to transit;  
2434 (vii) include stormwater management guidelines, consistent with state and local laws and  
2435 regulations; and (viii) respect the character of urban areas. These design standards and  
2436 methodologies are intended to facilitate approval of roadway and transportation system  
2437 improvement plans in urban areas that comply with the standards. These design standards  
2438 should not contradict or be in conflict with the principles outlined in the ~~Department's~~  
2439 Secondary Street Acceptance Requirements applicable state regulations concerning terms and  
2440 conditions under which subdivision streets may be accepted into the secondary state highway  
2441 system.

2442 Standards developed by parties as required by this section shall be submitted to ~~VDOT~~  
2443 the Department for final review and approval at least three months prior to the ~~jurisdiction's~~  
2444 locality's anticipated implementation date.

2445 **Drafting note: The references to "A Policy on Geometric Design of Highways and**  
2446 **Streets" and "Department's Secondary Street Acceptance Requirements" are stricken and**  
2447 **replaced with more general and up-to-date language from the Department of**  
2448 **Transportation. Technical changes are made.**

2449 § ~~33.1-69.01~~ 33.2-304. Department to install and maintain certain signs.

2450 Whenever so requested by the governing body of a county, the Department ~~of~~  
2451 Transportation shall install a system of ~~street~~ highway name signs on state-maintained highways  
2452 at such time and upon such terms and conditions as may be mutually agreed to between the  
2453 county and the Commissioner of Highways.

2454 The Department shall install, using state forces or contract, the initial signing system,  
2455 and the county shall be responsible for continuing maintenance of the signs. Supply of the signs  
2456 by the Department, either by manufacture or purchase, and initial installation shall be paid for  
2457 from appropriate secondary construction funds allocated to the county or from primary  
2458 construction funds available to the Department.

2459 No highway funds shall be used by the county for the cost of maintaining the signing  
2460 system.

2461 **Drafting note: Technical changes.**

2462 § ~~33.1-69.1~~ 33.2-305. Transfer of control, etc., of landings, docks, and wharves to  
2463 Department of Game and Inland Fisheries.

2464 A. Notwithstanding any other provision of law, the ~~Commonwealth Transportation~~  
2465 Board may transfer the control, possession, supervision, management, and jurisdiction of  
2466 landings, wharves, and docks in the secondary system of state highways to the Department of  
2467 Game and Inland Fisheries, at the request or with the concurrence of the Department of Game  
2468 and Inland Fisheries. Such transfer may be by lease, agreement, or otherwise, approved by

2469 resolution of the Board, and signed by the Commissioner ~~or his designee of Highways~~, for such  
2470 period and upon such terms and conditions as the Board may direct.

2471 B. All such transfers effected prior to ~~the enactment of this section July 1, 1980~~, by  
2472 lease, agreement, or otherwise, from the Department to the Department of Game and Inland  
2473 Fisheries; and all regulations of the Department of Game and Inland Fisheries controlling the  
2474 use of such facilities; shall be and are hereby declared valid in every respect.

2475 **Drafting note: Technical changes including adding the enactment date of this**  
2476 **section for clarity. References to "or his designee" are not necessary because the**  
2477 **Commissioner of Highways is authorized to delegate his authority as chief executive**  
2478 **officer; see proposed § 33.2-201.**

2479 § ~~33.1-69.2~~ 33.2-306. Relocation or removal of utility facilities within secondary state  
2480 highway system construction projects.

2481 A. As used in this section:

2482 "Cost of highway construction" includes the cost of relocating or removing utility  
2483 facilities in connection with any project on the secondary highway system.

2484 "Cost of relocation or removal" includes the entire amount paid by such utility properly  
2485 attributable to such relocation or removal after deducting therefrom any increase in the value of  
2486 the new facility and any salvage value derived from the old facility.

2487 "Facility of a utility" includes tracks, pipes, mains, conduits, cables, wires, towers, or  
2488 other structures, equipment, and appliances.

2489 "Utility" includes utilities owned by a county, city, town, public authority, or nonprofit,  
2490 consumer-owned company located in a county having a population of at least 32,000 but no  
2491 more than 34,000 that (i) is exempt from income taxation under § 501(c)(3) of the Internal  
2492 Revenue Code, (ii) is organized to provide suitable drinking water, (iii) has no assistance from  
2493 investors, (iv) does not pay dividends, and (v) does not sell stock to the general public.

2494 B. Whenever it is necessary that ~~any tracks, pipes, mains, conduits, cables, wires, towers,~~  
2495 ~~or other structures, equipment, and appliances (herein called facilities) of any utility as herein~~

2496 ~~defined the facilities of a utility~~, in, on, under, over, or along an existing highway that is to be  
2497 included within any construction project on the secondary state highway system should be  
2498 relocated or removed, the owner or operator of such facilities shall relocate or remove the same  
2499 in accordance with the order of the Board. The cost of such relocation or removal, ~~as herein~~  
2500 ~~defined~~, including the cost of installing such facilities in a new location or locations, and the  
2501 cost of any lands, or any rights or interest in lands, and any other rights, required to accomplish  
2502 such relocation or removal, shall be ascertained and paid by the Board as a part of the cost of  
2503 such project.

2504 ~~For the purposes of this section, "utility" includes utilities owned by a county, city, town,~~  
2505 ~~public authority, or nonprofit, consumer-owned company, located in a county having a~~  
2506 ~~population of at least 32,000 but no more than 34,000, that (i) is exempt from income taxation~~  
2507 ~~under § 501(c)(3) of the Internal Revenue Code, (ii) is organized to provide suitable drinking~~  
2508 ~~water, (iii) has no assistance from investors, (iv) does not pay dividends, and (v) does not sell~~  
2509 ~~stock to the general public, and "cost of relocation or removal" includes the entire amount paid~~  
2510 ~~by such utility properly attributable to such relocation or removal after deducting therefrom any~~  
2511 ~~increase in the value of the new facility and any salvage value derived from the old facility.~~

2512 ~~The cost of relocating or removing utility facilities in connection with any project on the~~  
2513 ~~secondary highway system is hereby declared to be a cost of highway construction.~~

2514 **Drafting note: Definitions referred to within this section are now included in a new**  
2515 **definitions subsection for clarity. Technical changes are made.**

2516 ~~§ 33.1-70.~~

2517 **Drafting note: Repealed by Acts 1977, c. 578.**

2518 ~~§ 33.1-70.04~~ 33.2-307. Annual meeting with county officers; six-year plan for secondary  
2519 state highways; certain reimbursements required.

2520 The governing body of each county in the secondary state highway system may, jointly  
2521 with the representatives of the Department ~~of Transportation~~ as designated by the Commissioner  
2522 of Highways, prepare a six-year plan for the improvements to the secondary state highway

2523 system in that county. Each such six-year plan shall be based upon the best estimate of funds to  
2524 be available to the county for expenditure in the six-year period on the secondary [state](#) highway  
2525 system. Each such plan shall list the proposed improvements, together with an estimated cost of  
2526 each project so listed. Following the preparation of the plan, the board of supervisors or other  
2527 [local](#) governing body shall conduct a public hearing after publishing notice in a newspaper  
2528 published in or having general circulation in the county once a week for two successive weeks,  
2529 and posting notice of the proposed hearing at the front door of the courthouse of such county 10  
2530 days before such meeting. At the public hearings, which shall be conducted jointly by the board  
2531 of supervisors and the representative of the Department ~~of Transportation~~, the entire six-year  
2532 plan shall be discussed with the citizens of the county and their views considered. Following  
2533 such discussion, the [local](#) governing body, together with the representative of the Department ~~of~~  
2534 ~~Transportation~~, shall finalize and officially adopt the six-year plan, which shall then be  
2535 considered the official plan of the county.

2536 At least once in each calendar year representatives of the Department ~~of Transportation~~  
2537 in charge of the secondary [state highway](#) system ~~of highways~~ in each county, or some  
2538 representative of the Department designated by the Commissioner of Highways, shall meet with  
2539 the governing body of each county in a regular or special meeting of such [local](#) governing body  
2540 for the purpose of preparing a budget for the expenditure of improvement funds for the next  
2541 fiscal year. The representative of the Department of Transportation shall furnish the [local](#)  
2542 governing body with an updated estimate of funds and the board and the representative of the  
2543 Department ~~of Transportation~~ shall jointly prepare the list of projects to be carried out in that  
2544 fiscal year taken from the six-year plan by order of priority; and following generally the policies  
2545 of the ~~Commonwealth Transportation~~ Board in regard to the statewide [improvements to the](#)  
2546 secondary [state](#) highway system ~~improvements~~. Such list of priorities shall then be presented at  
2547 a public hearing duly advertised in accordance with the procedure ~~hereinbefore~~ outlined [in this](#)  
2548 [section](#), and comments of citizens shall be obtained and considered. Following this public  
2549 hearing, the board, with the concurrence of the representative of the Department ~~of~~

2550 ~~Transportation~~, shall adopt, as official, a priority program for the ensuing year, and the  
2551 Department ~~of Transportation~~ shall include such listed projects in its secondary highways  
2552 budget for the county for that year.

2553 At least once every two years, following the adoption of the original six-year plan, the  
2554 governing body of each county, together with the representative of the Department ~~of~~  
2555 ~~Transportation~~, shall update the six-year plan of such county by adding to it and extending it as  
2556 necessary so as to maintain it as a plan encompassing six years. Whenever additional funds for  
2557 secondary highway purposes become available, the local governing body may request a revision  
2558 in such six-year plan in order that such plan be amended to provide for the expenditure of such  
2559 additional funds. Such additions and extensions to each six-year plan shall be prepared in the  
2560 same manner and following the same procedures as outlined herein for its initial preparation.  
2561 Where the local governing body and the representative of the Department ~~of Transportation~~ fail  
2562 to agree upon a priority program, the local governing body may appeal to the Commissioner of  
2563 Highways. The Commissioner of Highways shall consider all proposed priorities and render a  
2564 decision establishing a priority program based upon a consideration by the Commissioner of  
2565 Highways of the welfare and safety of county citizens. Such decision shall be binding.

2566 Nothing in this section shall preclude a local governing body, with the concurrence of  
2567 the representative of the Department ~~of Transportation~~, from combining the public hearing  
2568 required for revision of a six-year plan with the public hearing required for review of the list of  
2569 priorities, provided that notice of such combined hearing is published in accordance with  
2570 procedures provided in this section.

2571 All such six-year plans shall consider all existing highways in the secondary state  
2572 highway system, including those in the towns located in the county that are maintained as a part  
2573 of the ~~state~~ secondary state highway system, and shall be made a public document.

2574 If any county cancels any highway construction or improvement project included in its  
2575 six-year plan after the location and design for the project has been approved, such county shall  
2576 reimburse the Department ~~of Transportation~~ the net amount of all funds expended by the

2577 Department ~~of Transportation~~ for planning, engineering, right-of-way acquisition, demolition,  
2578 relocation, and construction between the date on which project development was initiated and  
2579 the date of cancellation. To the extent that funds from secondary ~~road~~ highway allocations  
2580 pursuant to § ~~33.1-23.4~~ 33.2-XXX have been expended to pay for a highway construction or  
2581 improvement project, all revenues generated from a reimbursement by the county shall be  
2582 deposited into that same county's secondary highway allocation. The Commissioner of  
2583 Highways may waive all or any portion of such reimbursement at its discretion.

2584 The provisions of this section shall not apply in instances where less than 100 percent of  
2585 the right-of-way is available for donation for unpaved ~~road~~ highway improvements.

2586 For purposes of this section, "cancellation" means complete elimination of a highway  
2587 construction or improvement project from the six-year plan.

2588 **Drafting note: Technical changes.**

2589 § ~~33.1-70.1~~ 33.2-308. Requesting Department to hard-surface secondary ~~roads~~ state  
2590 highways; paving of certain secondary ~~roads~~ state highways within existing rights-of-way;  
2591 designation as Rural Rustic Road.

2592 A. Whenever the governing body of any county, after consultation with personnel of the  
2593 Department ~~of Transportation~~, adopts a resolution requesting the Department ~~of Transportation~~  
2594 to hard-surface any secondary ~~road~~ highway in such county that carries 50 or more vehicles per  
2595 day with a hard surface of width and strength adequate for such traffic volume, the Department  
2596 ~~of Transportation~~ shall give consideration to such resolution in establishing priority in  
2597 expending the funds allocated to such county. The Department shall consider the paving of  
2598 ~~roads~~ highways with a right-of-way width of less than 40 feet under this subsection when land  
2599 is, has been, or can be acquired by gift for the purpose of constructing a hard-surface ~~road~~  
2600 highway.

2601 B. Notwithstanding the provisions of subsection A ~~of this section~~, any unpaved  
2602 secondary ~~road~~ highway that carries at least 50 but no more than 750 vehicles per day may be

2603 paved or improved and paved within its existing right-of-way or within a wider right-of-way  
2604 that is less than 40 feet wide if the following conditions are met:

2605 1. The governing body of the county in which the ~~road~~ highway is located has requested  
2606 paving of such ~~road~~ highway as part of the six-year plan for the county under § ~~33.1-70.01~~ 33.2-  
2607 XXX and transmitted that request to the Commissioner of Highways.

2608 2. The Commissioner of Highways, after having considered only (i) the safety of such  
2609 ~~road~~ highway in its current condition and in its paved or improved condition, including the  
2610 desirability of reduced speed limits and installation of other warning signs or devices, (ii) the  
2611 views of the residents and owners of property adjacent to or served by such ~~road~~ highway, (iii)  
2612 the views of the local governing body making the request, (iv) the historical and aesthetic  
2613 significance of such ~~road~~ highway and its surroundings, (v) the availability of any additional  
2614 land that has been or may be acquired by gift or other means for the purpose of paving such ~~road~~  
2615 highway within its existing right-of-way or within a wider right-of-way that is less than 40 feet  
2616 wide, and (vi) environmental considerations, shall grant or deny the request for the paving of  
2617 such ~~road~~ highway under this subsection.

2618 C. Notwithstanding the provisions of subsections A and B, the governing body of any  
2619 county, in consultation with the Department, may designate a ~~road~~ highway or ~~road~~ highway  
2620 segment as a Rural Rustic Road provided such ~~road~~ highway or ~~road~~ highway segment is  
2621 located in a low-density development area and has an average daily traffic volume of no more  
2622 than 1,500 vehicles per day. For a ~~road~~ highway or ~~road~~ highway segment so designated,  
2623 improvements shall utilize a paved surface width based on reduced and flexible standards that  
2624 leave trees, vegetation, side slopes, and open drainage abutting the ~~roadway~~ highway  
2625 undisturbed to the maximum extent possible without compromising public safety. Any ~~road~~  
2626 highway designated as a Rural Rustic Road shall be subject to § 10.1-603.8. The Department, in  
2627 consultation with the affected local governing body, shall first consider the paving of a ~~road~~  
2628 highway or ~~road~~ highway segment meeting the criteria for a Rural Rustic Road in accordance

2629 with this subsection before making a decision to pave it to another standard as set forth in this  
2630 section. ~~The provisions of this subsection shall become effective July 1, 2003.~~

2631 D. The Commonwealth, and its agencies, instrumentalities, departments, officers, and  
2632 employees acting within the scope of their duties and authority shall be immune for damages by  
2633 reason of actions taken in conformity with the provisions of this section. Immunity for the local  
2634 governing body of any political subdivision requesting paving under this section and the officers  
2635 and employees of any such political subdivision shall be limited to that immunity provided  
2636 pursuant to § 15.2-1405.

2637 **Drafting note: The effective date for subsection C has been stricken because the**  
2638 **section is now effective and the language is unnecessary. Technical changes are made.**

2639 § ~~33.1-70.2~~ 33.2-309. Emergency paving of unpaved secondary ~~roads~~ state highways;  
2640 notice and public hearing required.

2641 In the event of an emergency, no unpaved ~~road~~ highway within the secondary state  
2642 highway system ~~of highways~~ shall be paved unless the following procedures are satisfied:

2643 1. The Commissioner of Highways shall provide notice of such intended paving to the  
2644 governing body of the ~~jurisdiction~~ locality wherein the affected highway or portion thereof is  
2645 located. The Commissioner shall provide such notice following his decision to pave the unpaved  
2646 secondary ~~road~~ highway within the ~~jurisdiction~~ locality affected.

2647 2. The local governing body's concurrence or other recommendation regarding the  
2648 proposed paving shall be forwarded to the Commissioner of Highways within 72 hours  
2649 following the receipt of the Commissioner's notice.

2650 3. The Commissioner of Highways shall consider the following factors in determining  
2651 whether the unpaved secondary ~~road~~ state highway, as the result of an emergency, shall be  
2652 paved: (i) the safety of the secondary state highway in its current condition; (ii) the feasibility of  
2653 restoring the unpaved highway to its functional level prior to the emergency; (iii) the concerns  
2654 of the citizens in the ~~jurisdiction~~ locality wherein the affected highway is located, particularly  
2655 those persons who own land adjacent to such highway; (iv) the concerns of the ~~local~~ governing

2656 body of the jurisdiction locality affected; and (v) the historical and aesthetic significance of the  
2657 unpaved secondary state highway and its surroundings.

2658 **Drafting note: Technical changes.**

2659 § ~~33.1-70.3~~ 33.2-310. Requirements for taking new streets into ~~state~~ secondary state  
2660 highway system.

2661 A. The ~~local~~ governing body of any county that has not withdrawn from the ~~state~~  
2662 secondary state highway system or any town within which the ~~Virginia~~ Department ~~of~~  
2663 Transportation maintains the streets; may, by resolution, request the ~~Commonwealth~~  
2664 Transportation Board to take any new street or highway into the secondary state highway  
2665 system ~~of state highways~~ for maintenance if such street or highway has been developed and  
2666 constructed in accordance with the Board's secondary street acceptance requirements. Only  
2667 those streets or highways constructed in compliance with the ~~secondary street acceptance~~  
2668 requirements applicable state regulations concerning terms and conditions under which  
2669 subdivision streets may be accepted into the secondary state highway system shall be taken into  
2670 the ~~state~~ secondary state highway system for maintenance. The Board shall ~~promulgate~~ adopt  
2671 regulations establishing such secondary street acceptance requirements. ~~The secondary street~~  
2672 acceptance requirements established pursuant to this section, which shall include such  
2673 provisions as the Board deems necessary or appropriate to achieve the safe and efficient  
2674 operation of the Commonwealth's transportation network.

2675 B. In addition to such other provisions deemed necessary or appropriate by the Board,  
2676 the regulations shall include, ~~but not be limited to~~ (i) requirements to ensure the connectivity of  
2677 road and pedestrian networks with the existing and future transportation network; (ii) provisions  
2678 to minimize stormwater runoff and impervious surface area, and (iii) provisions for performance  
2679 bonding of new secondary streets and associated cost recovery fees.

2680 C. No initial regulation establishing secondary street acceptance requirements pursuant  
2681 to this section shall apply to subdivision plats and subdivision construction plans that have been  
2682 submitted and accepted for review by the ~~Virginia~~ Department ~~of Transportation~~ on or before

2683 the effective date of such initial regulations. No locality shall be obligated to approve any  
2684 subdivision plat or subdivision construction plans that are inconsistent with these regulations.

2685 D. Furthermore, nothing in this section or in any regulation, policy, or practice adopted  
2686 pursuant to this section shall prevent the acceptance of any street or segment of a street within a  
2687 network addition that meets one or more of the public service requirements addressed in the  
2688 regulations, provided that the network addition satisfies all other requirements adopted pursuant  
2689 to this section. In cases where a majority of the lots along the street or street segment remain  
2690 undeveloped and construction traffic is expected to utilize that street or street segment after  
2691 acceptance, the bonding requirement for such street or street segment may be required by the  
2692 Department to be extended for up to one year beyond that required in the secondary street  
2693 acceptance requirements.

2694 **Drafting note: Technical changes are made, including in subsection A changing the**  
2695 **term "promulgate regulations" to "adopt regulations" in keeping with recent title**  
2696 **revisions because "adopt" is more widely used and includes the promulgation process and**  
2697 **in subsection B removing the phrase "but not be limited to" based on § 1-218, which**  
2698 **states: "'Includes' means includes, but not limited to." References to the secondary street**  
2699 **acceptance requirements are replaced with more generic and up-to-date language from**  
2700 **the Department of Transportation. Technical changes are made.**

2701 ~~§ 33.1-71.~~

2702 **Drafting note: Repealed by Acts 1992, c. 94.**

2703 ~~§ 33.1-72.~~

2704 **Drafting note: Repealed by Acts 1979, c. 321.**

2705 ~~§ 33.1-72.1~~ § 33.2-311. Taking certain streets into secondary system.

2706 A. ~~"Street," as used in~~ For the purposes of this section, ~~means a street or highway shown~~  
2707 ~~on a plat which was recorded or otherwise opened to public use prior to July 1, 1992, at which~~  
2708 ~~time it was open to and used by motor vehicles, and which, for any reason, has not been taken~~  
2709 ~~into the secondary system of state highways and serves at least three families per mile.;~~

2710 ~~B.~~ "County;" ~~as used in this section,~~ means a county in which the secondary state  
2711 highway system ~~of the state highways~~ is constructed and maintained by the Department ~~of~~  
2712 Transportation and which has adopted a local ordinance for control of the development of  
2713 subdivision streets to the necessary standards for acceptance into the secondary state highway  
2714 system.

2715 "Qualifying rural addition cost" means that portion of the estimated engineering and  
2716 construction cost to improve the street to the minimum standards for acceptance remaining after  
2717 reducing the total estimated cost by any prorated amount deemed the responsibility of others  
2718 based on speculative interests as defined in this subsection.

2719 "Rural addition funds" means those funds reserved from the county's annual allocation  
2720 of secondary highway system construction funds, as defined in § 33.2-XXX, for the purpose of  
2721 this section. If such funds are not used by such county for such purpose during the fiscal year  
2722 they are so allocated, the funds may be held for such purpose for the four succeeding fiscal  
2723 years. A maximum of five percent of the annual secondary system highway construction  
2724 allocation may be reserved by the local governing body for rural additions.

2725 ~~C.~~ "Speculative interest;" ~~as used in this section,~~ means that the original developer or a  
2726 successor developer retains ownership in any lot abutting such street for development or  
2727 speculative purposes. In instances where it is determined that speculative interest is retained by  
2728 the original developer, developers, or successor developers, and the governing body of the  
2729 county deems that extenuating circumstances exist, the governing body of the county shall  
2730 require a pro rata participation by such original developer, developers, or successor developers  
2731 as prescribed in subsection ~~G of this section~~ D as a condition of the county's recommendation  
2732 pursuant to this section.

2733 ~~D.~~ ~~"Qualifying rural addition cost," as used in this section,~~ means ~~that portion of the~~  
2734 ~~estimated engineering and construction cost to improve the street to the minimum standards for~~  
2735 ~~acceptance remaining after reducing the total estimated cost by any prorated amount deemed the~~  
2736 ~~responsibility of others based on speculative interests as defined in subsection C.~~

2737 "Street" means a street or highway shown on a plat that was recorded or otherwise  
2738 opened to public use prior to July 1, 1992, at which time it was open to and used by motor  
2739 vehicles, and that, for any reason, has not been taken into the secondary state highway system  
2740 and serves at least three families per mile.

2741 E.-B. Whenever the governing body of a county recommends in writing to the  
2742 Department ~~of Transportation~~ that any street in the county be taken into and become a part of  
2743 the secondary state highway system ~~of the state highways~~ in such county, the Department ~~of~~  
2744 ~~Transportation~~ thereupon, within the limit of available funds and the mileage available in such  
2745 county for the inclusion of ~~roads~~ highways and streets in the secondary state highway system,  
2746 shall take such street into the secondary state highway system ~~of state highways~~ for  
2747 maintenance, improvement, construction, and reconstruction if such street, at the time of such  
2748 recommendation, ~~either:~~ (i) has a minimum dedicated width of 40 feet or (ii) in the event of  
2749 extenuating circumstances as determined by the Commissioner of Highways, ~~such street~~ has a  
2750 minimum dedicated width of 30 feet ~~at the time of such recommendation~~. In either case such  
2751 streets must have easements appurtenant thereto ~~which that~~ conform to the policy of the  
2752 ~~Commonwealth Transportation~~ Board with respect to drainage. After the streets are taken into  
2753 the secondary system of state highways, the Department shall maintain the same in the manner  
2754 provided by law. However, no such street shall be taken into and become a part of the secondary  
2755 system of state highways unless and until any and all required permits have been obtained and  
2756 any outstanding fees, charges, or other financial obligations of whatsoever nature have been  
2757 satisfied or provision has been made, whether by the posting of a bond or otherwise, for their  
2758 satisfaction.

2759 F.-C. Such street shall only be taken into the secondary system of state highways if the  
2760 governing body of the county has identified and made available the funds required to improve  
2761 the street to the required minimum standards. The county may consider the following options to  
2762 fund the required improvements for streets accepted under this section:

2763           1. The local governing body of the county may use a portion of the county's annual  
2764 secondary highway system construction allocation designated as "rural addition funds" to fund  
2765 the qualifying rural addition costs for qualifying streets if the county agrees to contribute from  
2766 county revenue or the special assessment of the landowners on the street in question one-half of  
2767 the qualifying rural addition cost to bring the streets up to the necessary minimum standards for  
2768 acceptance. No such special assessment of landowners on such streets shall be made unless the  
2769 governing body of the county receives written declarations from the owners of 75 percent or  
2770 more of the platted parcels of land abutting upon such streets stating their acquiescence in such  
2771 assessments. The basis for such special assessments, at the option of the local governing body,  
2772 shall be either (i) the proportion the value of each abutting parcel bears to the total value of all  
2773 abutting parcels on such street as determined by the current evaluation of the property for real  
2774 estate tax purposes, ~~or~~ (ii) the proportion the abutting road front footage of each parcel abutting  
2775 the street bears to the total abutting road front footage of all parcels abutting on the street, or (iii)  
2776 an equal amount for each parcel abutting on such street. No such special assessment on any  
2777 parcel shall exceed one-third of the current evaluation of such property for real estate tax  
2778 purposes. Special assessments under this section shall be conducted in the manner provided in  
2779 Article 2 (§ 15.2-2404 et seq.) of Chapter 24 of Title 15.2, mutatis mutandis, for assessments for  
2780 local improvements.

2781           2. The ~~local~~ governing body of any county may use a portion of its annual secondary  
2782 highway system construction allocation designated as "rural addition funds" to fund the  
2783 qualifying rural addition cost for qualifying streets within the limitation of funds and the  
2784 mileage limitation of the ~~Commonwealth Transportation~~ Board's policy on rural additions.

2785           3. The ~~local~~ governing body of any county may use revenues derived from the sale of  
2786 bonds to finance the construction of rural additions to the secondary state highway system of  
2787 such county. In addition, from the funds allocated by the Commonwealth for the construction of  
2788 secondary ~~road~~ state highway improvements, such local governing body may use funds  
2789 allocated within the ~~Commonwealth Transportation~~ Board policy for the construction of rural

2790 additions to pay principal and interest on bonds associated with rural additions in such county,  
2791 provided the revenue derived from the sale of such bonds is not used as the county matching  
2792 contribution under § ~~33.1-23.05~~ 33.2-XXX. The provisions of this section shall not constitute a  
2793 debt or obligation of the ~~Commonwealth Transportation~~ Board or the Commonwealth ~~of~~  
2794 Virginia.

2795 4. The ~~local~~ governing body of the county may expend general county revenue for the  
2796 purposes of this section.

2797 5. The ~~local~~ governing body of the county may permit one or more of the landowners on  
2798 the street in question to pay to the county a sum equal to one-half of the qualifying rural  
2799 addition cost to bring the street up to the necessary minimum standards for acceptance into the  
2800 secondary state highway system ~~of state highways~~, which funds the county shall then utilize for  
2801 such purpose. Thereafter, upon collection of the special assessment of landowners on such  
2802 street, the county shall use such special assessment funds to reimburse, without interest, the one  
2803 or more landowners for those funds ~~which that~~ they previously advanced to the ~~count~~ county to  
2804 bring the street up to the necessary minimum standards for acceptance.

2805 6. The local governing body of the county may utilize the allocations made to the county  
2806 in accordance with § ~~33.1-23.05~~ 33.2-XXX.

2807 G-D. In instances where it is determined that speculative interest, as defined in  
2808 subsection ~~C A~~ exists, the basis for the pro rata percentage required of such developer,  
2809 developers, or successor developers shall be the proportion that the value of the abutting parcels  
2810 owned or partly owned by the developer, developers, or successor developers bears to the total  
2811 value of all abutting property as determined by the current evaluation of the property for real  
2812 estate purposes. The pro rata percentage shall be applied to the ~~Department of Transportation's~~  
2813 Department's total estimated cost to construct such street to the necessary minimum standards  
2814 for acceptance to determine the amount of costs to be borne by the developer, developers, or  
2815 successor developers. Property so evaluated shall not be assessed in the special assessment for  
2816 the determination of the individual pro rata share attributable to other properties. Further, when

2817 such pro rata participation is accepted by the governing body of the county from such original  
2818 developer, developers, or successor developers, such amount shall be deducted from the  
2819 ~~Department of Transportation's~~ Department's total estimated cost, and the remainder of such  
2820 estimated cost, the qualifying rural addition cost, shall then be the basis of determining the  
2821 assessment under the special assessment provision or determining the amount to be provided by  
2822 the county when funded from general county revenue under the definition of speculative interest  
2823 in subsection C of this section A or determining the amount to be funded as a rural addition  
2824 under the definition of qualifying rural addition cost in subsection D of this section A.

2825 ~~H. E.~~ Acceptance of any street into the secondary state highway system ~~of state~~  
2826 highways for maintenance, improvement, construction, and reconstruction shall not impose any  
2827 obligation on the Board to acquire any additional right-of-way or easements should they be  
2828 necessary by virtue of faulty construction or design.

2829 ~~I. "Rural addition funds" means those funds reserved from the county's annual allocation~~  
2830 ~~of secondary system highway construction funds, as defined in § 33.1-67, for the purpose of this~~  
2831 ~~section. If such funds are not used by such county for such purpose during the fiscal year they~~  
2832 ~~are so allocated, the funds may be held for such purpose for the four succeeding fiscal years. A~~  
2833 ~~maximum of five percent of the annual secondary system highway construction allocation may~~  
2834 ~~be reserved by the governing body for rural additions.~~

2835 **Drafting note: Definitions are changed to conform to current Code standards,**  
2836 **including alphabetizing them within one subsection. References to the word "street" are**  
2837 **retained because it is a defined term in this section. Technical changes are made.**

2838 ~~§ 33.1-72.2~~ 33.2-312. Funds allocated to counties for Rural Addition Program; street  
2839 standards.

2840 A. Notwithstanding any other provision of law, the ~~Commonwealth Transportation~~  
2841 Board and the Commissioner of Highways shall not diminish funds allocated or allocable to any  
2842 county for use under the Rural Addition Program by reason of any county ordinance authorizing  
2843 the use of private roads not built to standards set by the Department ~~of Transportation~~ or

2844 construction of subdivisions streets built to standards other than those established by the  
2845 Department.

2846 B. In those counties where this section is applicable, the ordinance shall also state that  
2847 any and all streets that are not constructed to meet the standards necessary for inclusion in the  
2848 primary or secondary state highway system ~~of state highways~~ will be privately maintained and  
2849 will not be eligible for acceptance into the primary or secondary state highway system ~~of state~~  
2850 ~~highways~~ unless improved to current Department ~~of Transportation~~ standards with funds other  
2851 than those appropriated by the General Assembly and allocated by the ~~Commonwealth~~  
2852 ~~Transportation~~ Board. For any street that is not constructed to Department ~~of Transportation~~  
2853 standards, the subdivision plat and all approved deeds of subdivision, or similar instruments,  
2854 shall contain a statement advertising that the streets in the subdivision do not meet the standards  
2855 necessary for inclusion in the primary or secondary state highway system ~~of state highways~~ and  
2856 will not be maintained by the Department ~~of Transportation~~ or the county approving the  
2857 subdivision and are not eligible for rural addition funds or any other funds appropriated by the  
2858 General Assembly and allocated by the ~~Commonwealth Transportation~~ Board.

2859 **Drafting note: References to the "system of state highways" are changed to the**  
2860 **"primary or secondary state highway system" for clarity. Technical changes are made.**

2861 ~~§§ 33.1-73. through 33.1-75.1.~~

2862 **Drafting note: Repealed by Acts 1977, c. 578.**

2863 ~~§ 33.1-75.1.~~

2864 **Drafting note: Repealed by Acts 2006, c. 827, cl. 2.**

2865 ~~§ 33.1-75.2 33.2-313.~~ Contributions to primary or secondary ~~road~~ state highway  
2866 construction by counties.

2867 Notwithstanding any other provision of law, any county having ~~roads~~ highways in the  
2868 primary or secondary state highway system ~~of state highways~~ may contribute funds annually for  
2869 the construction of primary or secondary ~~roads~~ state highways. The funds contributed by such  
2870 county shall be appropriated from the county's general revenues for use by the Department ~~of~~

2871 ~~Transportation~~ on the primary or secondary state highway system within such county as may be  
2872 determined by the board of supervisors of such county in cooperation with the Department. The  
2873 funds to which any county may be entitled under the provisions of §§ ~~33.1-23.1 33.2-XXX~~,  
2874 ~~33.1-23.2 33.2-XXX~~, and ~~33.1-23.4 33.2-XXX~~ for construction, improvement, or maintenance  
2875 of primary or secondary ~~roads~~ state highways shall not be diminished by reason of any funds  
2876 contributed for that purpose by such county or by any person or entity, regardless of whether  
2877 such contributions are matched by state or federal funds.

2878 **Drafting note: Technical changes.**

2879 § ~~33.1-75.3 33.2-314~~. Construction and improvement of primary or secondary state  
2880 highways by counties.

2881 A. Notwithstanding any other provisions of this article, the governing body of any  
2882 county may expend general revenues or revenues derived from the sale of bonds for the purpose  
2883 of constructing or improving highways, including curbs, gutters, drainageways, sound barriers,  
2884 sidewalks, and all other features or appurtenances conducive to the public safety and  
2885 convenience, which either have been or may be taken into the primary or secondary state  
2886 highway system ~~of state highways~~. Project planning and the acquisition of rights-of-way shall  
2887 be under the control and at the direction of the county, subject to the approval of project plans  
2888 and specifications by the Department ~~of Transportation~~. All costs incurred by the Department ~~of~~  
2889 ~~Transportation~~ in administering such contracts shall be reimbursed from the county's general  
2890 revenues or from revenues derived from the sale of bonds or such costs may be charged against  
2891 the funds which the county may be entitled to under the provisions of § ~~33.1-23.1 33.2-XXX~~,  
2892 ~~33.1-23.2 33.2-XXX~~, or ~~33.1-23.4 33.2-XXX~~.

2893 B. Projects undertaken under the authority of subsection A ~~of this section~~ shall not  
2894 diminish the funds to which a county may be entitled under the provisions of § ~~33.1-23.1 33.2-~~  
2895 ~~XXX~~, ~~33.1-23.2 33.2-XXX~~, ~~33.1-23.4~~, ~~33.2-XXX~~, or ~~33.1-23.05 33.2-XXX~~.

2896 C. At the request of the county, the Department ~~of Transportation~~ may agree to  
2897 undertake the design, right-of-way acquisition, or construction of projects funded by the county.

2898 | In such situations, the Department ~~of Transportation~~ and the county will enter into an agreement  
2899 | specifying all relevant procedures and responsibilities concerning the design, right-of-way  
2900 | acquisition, construction, or contract administration of projects to be funded by the county. The  
2901 | county will reimburse the Department ~~of Transportation~~ for all costs incurred by the Department  
2902 | in carrying out the aforesaid activities from general revenues or revenues derived from the sale  
2903 | of bonds.

2904 |         D. Notwithstanding any contrary provision of law, any county may undertake activities  
2905 | towards the design, land acquisition, or construction of primary or secondary state highway  
2906 | projects that have been included in the six-year plan pursuant to § ~~33.1-70.01~~ 33.2-XXX, or in  
2907 | the case of a primary state highway, an approved project included in the six-year improvement  
2908 | program of the ~~Commonwealth Transportation~~ Board. In such situations, the Department ~~of~~  
2909 | ~~Transportation~~ and the county shall enter into an agreement specifying all relevant procedures  
2910 | and responsibilities concerning the design, right-of-way acquisition, construction, or contract  
2911 | administration of projects to be funded by the Department. Such activities shall be undertaken  
2912 | with the prior concurrence of the Department ~~of Transportation~~, and the Department shall  
2913 | reimburse the county for expenses incurred in carrying out these activities. Such reimbursement  
2914 | shall be derived from primary or secondary highway funds ~~which that~~ the county may be  
2915 | entitled to under the provisions of this chapter. The county may undertake these activities in  
2916 | accordance with all applicable county procedures, provided the Commissioner of Highways  
2917 | finds that those county procedures are substantially similar to departmental procedures and  
2918 | specifications.

2919 |         E. If funding for the construction of a primary or interstate project is scheduled in the  
2920 | ~~Commonwealth Transportation~~ Board's Six-Year Improvement Program as defined in § ~~33.1-12~~  
2921 | 33.2-XXX, a locality may choose to advance funds to the project. If such advance is offered, the  
2922 | Board may consider such request and agree to such advancement and the subsequent  
2923 | reimbursement of the locality of the advance in accordance with terms agreed upon by the  
2924 | Board or its designee and the locality.

2925 F. Any county carrying out any construction project as authorized in this section may, in  
2926 so doing, exercise the powers granted the Commissioner of Highways under Article ~~7 X~~ (§~~33.1-~~  
2927 ~~89 33.2-XXX~~ et seq.) ~~of this chapter~~ to enter property for the purpose of making an examination  
2928 and survey thereof, with a view to ascertainment of its suitability for highway purposes and any  
2929 other purpose incidental thereto.

2930 G. For the purposes of this section, any county without an existing franchise agreement,  
2931 when administering a Department-sanctioned project under a land-use permit or transportation  
2932 project agreement, shall have the same authority as the Department pertaining to the relocation  
2933 of utilities.

2934 H. Whenever so requested by any county, funding of any project undertaken as provided  
2935 in this section may be supplemented solely by state funds in order to avoid the necessity of  
2936 complying with additional federal requirements, provided a determination has been made by the  
2937 Department that (i) adequate state funds are available to fully match available federal  
2938 transportation funds and (ii) the Department can meet its federal obligation authority, as  
2939 permitted by federal law.

2940 **Drafting note: Technical changes.**

2941 ~~§§ 33.1-76. through 33.1-78.1.~~

2942 **Drafting note: Repealed by Acts 1977, c. 578.**

2943 ~~§ 33.1-79 33.2-315.~~ Maintenance, etc., of streets and ~~roads~~ highways in certain towns  
2944 from secondary funds.

2945 The Commissioner of Highways ~~of Virginia is hereby authorized and empowered may,~~  
2946 subject to the approval of the ~~Commonwealth Transportation~~ Board, upon request of the  
2947 governing bodies of ~~incorporated~~ towns ~~of with a population of~~ less than 3,500 ~~inhabitants,~~  
2948 according to the last United States census, ~~to~~ select certain streets and ~~roads~~ highways in such  
2949 towns for maintenance, improvement, construction, and reconstruction from allocations  
2950 available from secondary state highway funds not to exceed ~~2 two~~ miles of streets or ~~roads~~  
2951 highways in such ~~incorporated~~ towns included in the secondary state highway system ~~of~~

2952 ~~highways~~, whether such ~~2 two~~ miles of streets or ~~roads highways~~ constitute connecting links  
2953 between ~~roads highways~~ in the secondary ~~state highway~~ system in the several counties; or  
2954 between ~~roads highways~~ in the secondary ~~state highway~~ system and ~~roads highways~~ in the  
2955 primary ~~state highway~~ system, ~~of the state highways~~ or not.

2956 The ~~said~~ Commissioner ~~is hereby authorized and empowered of Highways~~, with the  
2957 approval of the ~~Commonwealth Transportation~~ Board, in addition to the said two miles ~~to may~~  
2958 increase the mileage of streets and ~~roads highways~~ in such ~~incorporated~~ towns annually, not to  
2959 exceed, however, in any one year one-fourth mile, exclusive of any mileage transferred from the  
2960 primary ~~state highway~~ system under the provisions of § ~~33.1-35, 33.2-XXX~~ or any mileage  
2961 maintained by the Department ~~of Transportation~~ prior to its annexation by such ~~incorporated~~  
2962 town.

2963 **Drafting note: Technical changes.**

2964 ~~§§ 33.1-80., 33.1-81.~~

2965 **Drafting note: Repealed by Acts 1985, c. 42.**

2966 § ~~33.1-82 33.2-316~~. Maintenance, etc., by Commissioner of Highways when no request  
2967 for allocation.

2968 If no request is made to the ~~Commonwealth Transportation~~ Board ~~of Virginia~~ by the  
2969 governing body of any such town as provided in § ~~33.1-79 33.2-XXX~~, the Commissioner of  
2970 Highways, subject to the approval of the ~~Commonwealth Transportation~~ Board, may maintain,  
2971 improve, construct, and reconstruct all streets in such ~~incorporated~~ town that (i) have an  
2972 unrestricted right-of-way width of not less than ~~thirty 30~~ feet and a ~~hard surface hard-surface~~  
2973 width of not less than ~~twelve 12~~ feet; (ii) were established after July 1, 1950, by such town and  
2974 have a right-of-way width of not less than ~~fifty 50~~ feet and a ~~hard surface hard-surface~~ width of  
2975 not less than ~~twenty 20~~ feet; or (iii) are functionally classified as local streets and were  
2976 constructed on or after January 1, 1996, and at the time of approval by the town, met the criteria  
2977 for pavement width and right-of-way of the ~~then-current edition of the subdivision street~~  
2978 ~~requirements manual for secondary roads of the Department of Transportation (24 VAC 30-90-~~

2979 ~~10 et seq.)~~ applicable state regulations concerning terms and conditions under which subdivision  
2980 streets may be accepted into the secondary state highway system in effect at the time.

2981 **Drafting note: A references to the requirements manual for secondary roads in the**  
2982 **Virginia Administrative Code is stricken and replaced with more generic and up-to-date**  
2983 **language from the Department of Transportation. Technical changes are made.**

2984 § 33.1-83.

2985 **Drafting note: Repealed by Acts 1985, c. 42.**

2986 § 33.1-84, 33.2-317. Maps of secondary state highway system.

2987 The Commissioner of Highways shall prepare and keep on file in his office for public  
2988 inspection a complete map for each county showing the route of the secondary state highway  
2989 system ~~of state highways~~.

2990 **Drafting note: Technical changes.**

2991 § 33.1-84, 33.2-318. Resumption of responsibility for secondary state highways by  
2992 counties.

2993 Notwithstanding any provisions of § 11 of Chapter 415 of the Acts of Assembly of 1932  
2994 and §§ ~~33.1-84, 33.1-85, 33.1-87, 33.2-XXX~~ and ~~33.1-88, 33.2-XXX~~, the Commissioner of  
2995 Highways, following receipt of a resolution adopted by the ~~Board of Supervisors~~ board of  
2996 supervisors of a county requesting such action, may enter into an agreement with any county  
2997 that desires to resume responsibility over all or any portion of the ~~state~~ secondary state highway  
2998 system ~~of highways~~ within such county's boundaries for the purposes of planning, constructing,  
2999 maintaining, and operating such highways. Such agreement shall specify the equipment,  
3000 facilities, personnel, and funding that will be provided to the county in order to implement such  
3001 agreement's provisions.

3002 Any county that resumes full responsibility for all of the ~~state~~ secondary state highway  
3003 system ~~of highways~~ within such county's boundaries (i) shall have authority and control over the  
3004 secondary state highway system ~~of highways~~ within its boundaries, (ii) shall be deemed to have  
3005 withdrawn from the ~~state~~ secondary state highway system ~~of highways~~, and (iii) will receive

3006 payments in accordance with § ~~33.1-23.5:1~~ 33.2-XXX. The resolution requesting resumption of  
3007 all responsibilities shall also include a request for the transfer and release of all rights-of-way  
3008 and rights of access along the ~~state~~ secondary state highway system ~~of highways~~ within the  
3009 county's boundaries.

3010 **Drafting note: Technical changes.**

3011 § ~~33.1-85~~ 33.2-319. Return after withdrawal from secondary state highway system.

3012 Any county ~~which~~ that has withdrawn its roads from the secondary state highway system  
3013 ~~of state highways~~ under the provisions of § 11 of Chapter 415 of the Acts of Assembly of 1932,  
3014 ~~approved March 31, 1932~~, shall have the right at any time to bring itself back within such  
3015 secondary state highway system ~~of state highways~~, provided the ~~same shall be~~ decision is  
3016 approved by a majority of the qualified voters of such county voting in an election called for  
3017 that purpose, as ~~hereafter~~ provided in this article.

3018 **Drafting note: Technical changes.**

3019 § ~~33.1-86~~ 33.2-320. Election to determine return to the secondary state highway system.

3020 ~~The~~ Upon the petition of qualified voters of any county that proposes to return its roads  
3021 to the secondary state highway system equal in number to at least 20 percent of the number  
3022 counted in such county for presidential electors at the last preceding presidential election or 250,  
3023 whichever is more, the circuit court of ~~any~~ such county, or the judge thereof in vacation, shall,  
3024 ~~upon the petition of qualified voters of the county equal in number to at least twenty per centum~~  
3025 ~~of the number counted in such county for presidential electors at the last preceding presidential~~  
3026 ~~election, but in no event less than 250,~~ make an order requiring the judges of election, on such  
3027 day as may be fixed in the order, but not less than 30 days after the date of ~~entry thereof~~ the  
3028 order, to open a poll and take the sense of the qualified voters of the county on the question of  
3029 whether or not such county shall ~~come back within such~~ return to the secondary state highway  
3030 system ~~of state highways~~. The qualifications of voters at each such election shall be as provided  
3031 by §§ 24.2-400 through 24.2-403.

3032 ~~The form of ballot for use in any such election shall be as follows~~ The ballots for use at  
3033 any such election shall be printed to state the question as follows:

3034 "Shall . . . . . county (the name of such county to be inserted) ~~come back~~  
3035 within return to the secondary state highway system ~~of state highways~~ for maintenance and  
3036 construction by the State Commonwealth?

3037 Yes

3038 No"

3039  Yes

3040  No"

3041 ~~Each qualified voter, who shall approve the coming back within the secondary system of~~  
3042 ~~state highways shall express such approval by striking out the word "No," and each voter who~~  
3043 ~~shall disapprove the same shall express his disapproval by striking out the word "Yes." The~~  
3044 ballots shall be printed, marked, and counted and returns made and canvassed as in other  
3045 elections. The results shall be certified by the secretary of the appropriate electoral board to the  
3046 State Board, to the court ordering the election, and to such other authority as may be proper to  
3047 accomplish the purpose of the election. All other proceedings in connection with any such  
3048 election shall be in conformity with the proceedings prescribed in § 11 of Chapter 415 of the  
3049 Acts of Assembly of 1932, ~~approved March 31, 1932.~~

3050 **Drafting note: The means of expressing approval or disapproval are updated to**  
3051 **conform to current election law. New language is taken from § 24.2-684 on how**  
3052 **referendum elections are called and held and how the results are ascertained and certified.**

3053 **Technical changes are made.**

3054 § ~~33.1-87~~ 33.2-321. Effect of election.

3055 If the result of such election shall be in favor of the county ~~coming back within returning~~  
3056 to the secondary state highway system ~~of state highways~~, such county shall, after the entry by  
3057 the court of an order so declaring the result of such election and on and after the first day of July  
3058 next succeeding, be within the secondary state highway system ~~of state highways~~ as fully and

3059 completely as if it had not withdrawn therefrom. All provisions of this article shall thereupon  
3060 apply to and be enforced as to such county to the same extent as if the dates in such Chapter 415  
3061 of the Acts of 1932 had been changed to correspond with the year in which such county shall  
3062 come within the secondary state highway system-~~of state highways~~. Such county shall not be  
3063 allowed again to withdraw from the secondary state highway system-~~of state highways~~.

3064 **Drafting note: Technical changes.**

3065 § ~~33.1-88~~ 33.2-322. Machinery, etc., owned by returning county.

3066 The Commissioner of Highways shall, as promptly as practicable, make or cause to be  
3067 made an inventory and appraisal of all road machinery, equipment, teams, material, and  
3068 supplies, on hand or belonging to the local-~~road~~ highway authorities of any county that shall so  
3069 return within the secondary state highway system-~~of state highways~~ or any district thereof,  
3070 which may be deemed by him suitable for work on the secondary state highway system-~~of state~~  
3071 ~~highways~~, and shall file such inventory and appraisal with the-~~Commonwealth Transportation~~  
3072 Board. The local-~~road~~ highway authorities may, if they so elect, turn over to the Commonwealth  
3073 such road machinery, equipment, teams, material, and supplies at the appraised value thereof,  
3074 which shall be paid within two years out of funds available for expenditure on-~~roads~~ highways  
3075 in the secondary state highway system-~~of state highways~~ or, if they so prefer, the local-~~road~~  
3076 highway authorities may retain or sell any of such property otherwise or, if they so elect, may  
3077 turn over to the Commissioner all or any of such property for use upon the secondary state  
3078 highway system-~~of state highways~~ without reimbursement therefor. Any sums received by the  
3079 local-~~road~~ highway authorities under the provisions of this section shall, so far as may be  
3080 necessary, be applied on account of obligations theretofore contracted for county or district-~~road~~  
3081 highway purposes and the balance, if any, for general county purposes.

3082 **Drafting note: Technical changes.**

3083 Article ~~4~~ 7.

3084 Limited Access Highways; Scenic Highways and Virginia Byways; Highways over Dams.

3085           **Drafting note: Limited Access Highways (Article 4 of Chapter 1), Scenic Highways**  
3086 **and Virginia Byways (Article 5 of Chapter 1), and Highways over Dams (Article 14 of**  
3087 **Chapter 1) are combined in proposed Article 7 of Chapter 2.**

3088           § ~~33.1-57~~ 33.2-323. ~~"Limited access highway" defined~~ Definitions.

3089           A limited-As used in this article, unless the context requires a different meaning:

3090           "Limited access highway-is defined as" means a highway especially designed for  
3091 through traffic, over which abutters have no easement or right of light, air, or access to by  
3092 reason of the fact that their property abuts upon such limited access highway.

3093           "Scenic highway" means a road, designated as such by the Board, within a protected  
3094 scenic corridor located, designed, and constructed so as to preserve and enhance the natural  
3095 beauty and cultural value of the countryside.

3096           "Virginia byway" means a road, designated as such by the Board, having relatively high  
3097 aesthetic or cultural value, leading to or within areas of historical, natural, or recreational  
3098 significance.

3099           **Drafting note: Definitions in combined existing Articles 4, 5, and 14 of Chapter 1**  
3100 **are relocated to a new definitions section at the beginning of proposed Article 7, applicable**  
3101 **throughout the article. Technical changes are made.**

3102           § ~~33.1-58~~ 33.2-324. Power and authority of Board relating to limited access highways.

3103           The ~~Commonwealth Transportation~~ Board may plan, designate, acquire, open, construct,  
3104 reconstruct, improve, maintain, discontinue, abandon, and regulate the use of limited access  
3105 highways; in the same manner in which it is now or may be authorized to plan, designate,  
3106 acquire, open, construct, reconstruct, improve, maintain, discontinue, abandon, and regulate the  
3107 use of other highways within ~~this the~~ the Commonwealth. The Board shall also have any and all  
3108 other additional authority and power relative to other highways, which shall include the right to  
3109 acquire by purchase, eminent domain, grant, or dedication title to such lands or rights-of-way  
3110 for such limited access highways.

3111 Notwithstanding any other provisions of this Code, any highway, ~~street,~~ or portion  
3112 thereof, to which access rights of abutters have been acquired by the ~~Commonwealth~~  
3113 ~~Transportation~~ Board and which is subsequently incorporated into the ~~street highway~~ system of  
3114 a city or town by any method, shall remain limited access until and unless the governing body of  
3115 the city or town, after securing the approval of the ~~Commonwealth Transportation~~ Board, acts to  
3116 discontinue such limited access feature.

3117 **Drafting note: Technical changes.**

3118 § ~~33.1-59~~ 33.2-325. Designating existing highway as limited access highway;  
3119 extinguishing easements of access.

3120 The Board may designate all or any part of an existing highway as a limited access  
3121 highway. When an existing highway is so designated, the Board shall, where necessary,  
3122 extinguish all existing easements of access, light, or air.

3123 **Drafting note: Technical changes.**

3124 § ~~33.1-60~~ 33.2-326. Business enterprises restricted on limited access highway right-of-  
3125 way.

3126 No commercial establishment or business enterprise shall be constructed or located upon  
3127 any right-of-way of any limited access highway.

3128 **Drafting note: Technical changes.**

3129 § ~~33.1-61~~ 33.2-327. Parallel service roads Service highways parallel to limited access  
3130 highways; standards for access, service, etc., ~~roads~~ highways.

3131 The Board may construct service ~~roads~~ highways parallel to a limited access highway in  
3132 order to provide access at designated points for property owners abutting on the limited access  
3133 highway and after the construction of such service ~~roads~~ highways shall maintain and regulate  
3134 traffic over them.

3135 The construction or alteration of any access, feeder, or service ~~road which~~ highway that  
3136 is to serve properties isolated by construction of a limited access highway shall meet all  
3137 minimum state standards or the standards of the cities or towns with a population of more than

3138 3,500 ~~population~~, or of counties ~~which that~~ maintain their own ~~road~~ highway networks, as  
3139 provided for by ordinance, whichever is more strict.

3140 **Drafting note: Technical changes.**

3141 ~~Article 5.~~

3142 ~~Scenic Highways and Virginia Byways.~~

3143 **Drafting note: Existing Article 5 of Chapter 1 is combined with Articles 4 and 14 of**  
3144 **Chapter 1 in proposed Article 7 of Chapter 2.**

3145 § ~~33.1-62~~ 33.2-328. Designation of scenic highways and Virginia byways.

3146 The ~~Commonwealth Transportation~~ Board is ~~hereby~~ authorized to designate any  
3147 highway as a scenic highway or as a Virginia byway. This designation shall be made in  
3148 cooperation with the Director of the Department of Conservation and Recreation. Prior to  
3149 designation, the local governing body and local planning commission, if any, in each county or  
3150 city wherein the proposed scenic highway or Virginia byway is located shall be given notice  
3151 and, upon request by any of the local governing bodies, the ~~Commonwealth Transportation~~  
3152 Board shall hold a hearing in one of the counties or cities wherein the proposed scenic highway  
3153 or Virginia byway is located.

3154 **Drafting note: Technical changes.**

3155 § ~~33.1-63~~ 33.2-329. ~~"Virginia byway" defined; preference in selecting~~ Selecting Virginia  
3156 byways.

3157 ~~For the purposes of this article, a "Virginia byway" is defined as a road, designated as~~  
3158 ~~such by the Commonwealth Transportation Board, having relatively high aesthetic or cultural~~  
3159 ~~value, leading to or within areas of historical, natural, or recreational significance.~~ In selecting a  
3160 Virginia byway, the ~~Commonwealth Transportation~~ Board and the Director of the Department  
3161 of Conservation and Recreation shall give preference to corridors controlled by zoning or  
3162 otherwise, so as to reasonably protect the aesthetic or cultural value of the highway.

3163 **Drafting note: Definition is relocated to a new definitions section at the beginning of**  
3164 **this proposed article. Technical changes are made.**

3165 ~~§ 33.1-64. "Scenic highway" defined.~~

3166 ~~For the purpose of this article, a "scenic highway" is defined as a road designated as such~~  
3167 ~~by the Commonwealth Transportation Board, within a protected scenic corridor located,~~  
3168 ~~designed, and constructed so as to preserve and enhance the natural beauty and cultural value of~~  
3169 ~~the countryside.~~

3170 **Drafting note: Repeal; definition is relocated to a new definitions section at the**  
3171 **beginning of this proposed article.**

3172 ~~§ 33.1-65 33.2-XXX. Signs Scenic highways and Virginia byways.~~

3173 ~~When the Commonwealth Transportation Board designates a highway as a scenic~~  
3174 ~~highway or as a Virginia byway, it shall be appropriately signed as such, and the Commissioner~~  
3175 ~~of Highways may acquire by gift or purchase such land, or interests therein, of primary~~  
3176 ~~importance for the preservation of natural beauty adjacent to scenic highways.~~

3177 **Drafting note: Two very short sections dealing with scenic highways and Virginia**  
3178 **byways are combined into a single section. Technical changes are made.**

3179 ~~§ 33.1-66. Acquisition of adjacent land.~~

3180 ~~When the Commonwealth Transportation Board has designated a highway as a Virginia~~  
3181 ~~byway or as a scenic highway, the Commissioner of Highways may acquire by gift or purchase~~  
3182 ~~such land, or interests therein, of primary importance for the preservation of natural beauty~~  
3183 ~~adjacent to scenic highways.~~

3184 **Drafting note: Repeal; this section is combined with existing § 33.1-65 dealing with**  
3185 **scenic highways and Virginia byways.**

3186 ~~Article 14.~~

3187 ~~Roads Over Dams.~~

3188 **Drafting note: Existing Article 14 of Chapter 1 is combined with existing Articles 4**  
3189 **and 5 of Chapter 1 in proposed Article 7 of Chapter 2.**

3190 ~~§ 33.1-176 33.2-331. Duty of owner or occupier of dam over which state highway~~  
3191 ~~passes; penalty.~~

3192 Every owner or occupier of a dam over which a state highway passes shall, ~~so far as any~~  
3193 ~~state highway passes over the same,~~ keep such dam in good order, at least ~~twelve~~ 12 feet wide at  
3194 the top, and also keep in good order the substructure of a bridge of like width over the pier  
3195 heads, floodgates, or any wastecut through or around the dam, provided, ~~however,~~ that when  
3196 ~~the above has~~ these requirements have been ~~done met,~~ the superstructure of any such bridge  
3197 shall be maintained by the Commissioner of Highways. The Commissioner of Highways shall  
3198 inspect all such bridges and report to the owner in writing any needed repairs. If such owner  
3199 fails to comply with the provisions of this article, he ~~shall be deemed is~~ guilty of a misdemeanor  
3200 ~~and, upon conviction thereof, shall be fined two dollars punishable by a fine of \$2~~ for every  
3201 such failure of ~~twenty-four~~ 24 hours. ~~But~~ However, if a milldam is carried away or destroyed by  
3202 flood or any other extraordinary natural cause, the owner or occupier thereof shall not be subject  
3203 to such fine until one month after any mill, operated in whole or in part by water impounded by  
3204 such dam, has been put into operation by such waterpower.

3205 **Drafting note: No section in existing Article 14 has been amended since this title**  
3206 **was last revised in 1970; at that time, no section in the article had been amended since the**  
3207 **Code of 1950. Technical changes and modernization of language are made.**

3208 § ~~33.1-177~~ 33.2-332. Duties of Commissioner of Highways related to dams over which a  
3209 state highway passes.

3210 The Commissioner of Highways may, at his own cost and expense, widen or strengthen  
3211 any ~~such~~ dam or bridge over which a state highway passes to a sufficient width ~~sufficient~~  
3212 ~~properly~~ to provide properly for ~~the~~ traffic ~~which that~~ uses that section of ~~road~~ highway of  
3213 which such dam or bridge forms a part. The Commissioner of Highways shall maintain the ~~road~~  
3214 highway surface on such sections of ~~road~~ highway.

3215 **Drafting note: No section in existing Article 14 has been amended since this title**  
3216 **was last revised in 1970; at that time, no section in the article had been amended since the**  
3217 **Code of 1950. Technical changes and modernization of language are made.**

3218 § ~~33.1-178~~ 33.2-333. Raising or lowering floodgates.

3219           The owner or occupier of a dam shall raise or lower the floodgates on such dam when  
3220 | there is an impending flood in order to reduce the level of the water in the pond, and when it  
3221 | comes to the attention of the Commissioner of Highways,~~or his authorized agent~~, that this has  
3222 | not been done, or that the owner is unable to reach the spillway in order to do so, the  
3223 | Commissioner,~~or his authorized agent~~, of Highways may perform this duty.

3224           **Drafting note: No section in existing Article 14 has been amended since this title**  
3225 | **was last revised in 1970; at that time, no section in the article had been amended since the**  
3226 | **Code of 1950. References to "his authorized agent" are not necessary because the**  
3227 | **Commissioner of Highways is authorized to delegate his authority as chief executive**  
3228 | **officer; see proposed § 33.2-201. Technical changes are made.**

3229 |           § ~~33.1-179~~ 33.2-334. Reconstruction if dam is washed out.

3230           In case such a dam is washed out and the owner refuses to replace the same, the  
3231 | Commissioner of Highways, with or without the consent of such owner or occupier, may  
3232 | construct a highway across the same; but in case the owner desires to replace the dam and use  
3233 | the pond, he shall be permitted to do so by paying to the Commissioner ~~one-half of Highways~~  
3234 | one-half of the cost and expenses of replacing the dam, up to a width of ~~twelve~~ 12 feet at the  
3235 | top, and the difference between the cost, if any, of replacing the bridge normally required to  
3236 | carry the water of the stream and the cost of a bridge ~~which that~~ includes floodgates and  
3237 | adequate spillway.

3238           **Drafting note: No section in existing Article 14 has been amended since this title**  
3239 | **was last revised in 1970; at that time, no section in the article had been amended since the**  
3240 | **Code of 1950. Technical changes are made.**

3241 |           § ~~33.1-180~~ 33.2-335. When larger spillway required.

3242           In case the earthen portion of a dam has been washed away and it is determined by the  
3243 | Commissioner of Highways that the washout was caused by a spillway of insufficient opening  
3244 | to carry floodwater, the dam shall not be restored for the purpose of impounding water unless  
3245 | the owner or occupier agrees with the Commissioner ~~for~~ of Highways to the construction of a

3246 spillway with adequate opening, conforming to plans and specifications of the Department ~~of~~  
3247 ~~Transportation~~. In the event that such construction is required, the Commissioner of Highways  
3248 shall be responsible for such part of the cost as would be necessary to provide a bridge with  
3249 sufficient opening to carry the floodwater of the stream, and the owner or occupier of the dam  
3250 shall be required to pay the difference in cost, if any, of providing adequate floodgates and  
3251 spillways in addition to the bridge.

3252 **Drafting note: No section in existing Article 14 has been amended since this title**  
3253 **was last revised in 1970; at that time, no section in the article had been amended since the**  
3254 **Code of 1950. Technical changes are made.**

3255 § ~~33.1-181~~ 33.2-336. Article applicable to county roads.

3256 ~~The foregoing sections of this article Sections 33.1-176 through 33.1-180 (Sections 33.2-~~  
3257 ~~xxx through 33.2-xxx)~~ shall also apply to dams, and to the owners and occupiers thereof, over  
3258 which pass public ~~roads which~~ highways that are not in the ~~State Highway System primary~~ or  
3259 secondary state highway system ~~of state highways~~. As to any such dam and the owner or  
3260 occupier thereof, the powers ~~hereinabove in this article~~ conferred and imposed upon the  
3261 Commissioner of Highways in §§ 33.2-XX through 33.2-XXX shall be vested in and imposed  
3262 upon the ~~board of supervisors or other~~ governing body of the county in which such dam is  
3263 located.

3264 **Drafting note: No section in existing Article 14 has been amended since this title**  
3265 **was last revised in 1970; at that time, no section in the article had been amended since the**  
3266 **Code of 1950. Technical changes are made.**

3267 Article 8.

3268 HOV Lanes and HOT Lanes.

3269 § ~~33.1-46.2~~ 33.2-337. Designation of high-occupancy vehicle lanes; use of such lanes;  
3270 penalties.

3271 A. In order to facilitate the rapid and orderly movement of traffic to and from urban  
3272 areas during peak traffic periods, the ~~Commonwealth Transportation~~ Board may designate one

3273 or more lanes of any highway in the ~~interstate~~ Interstate, primary, or secondary highway  
3274 systems as high-occupancy vehicle lanes, hereinafter referred to in this section as HOV lanes.  
3275 When lanes have been so designated and have been appropriately marked with such signs or  
3276 other markers as the Board may prescribe, they shall be reserved during periods designated by  
3277 the Board for the exclusive use of buses and high-occupancy vehicles. Any local governing  
3278 body may also, with respect to highways under its exclusive jurisdiction, designate HOV lanes  
3279 and impose and enforce restrictions on the use of such HOV lanes. Any highway for which the  
3280 ~~local jurisdiction~~ locality receives highway maintenance funds pursuant to § ~~33.1-41.1~~ 33.2-  
3281 XXX shall be deemed to be within the exclusive jurisdiction of the local governing body for the  
3282 purposes of this section. HOV lanes shall be reserved for high-occupancy vehicles of a specified  
3283 number of occupants as determined by the Board or, for HOV lanes designated by a local  
3284 governing body, by that local governing body. Notwithstanding the foregoing provisions of this  
3285 section, no designation of any lane or lanes of any highway as HOV lanes shall apply to the use  
3286 of any such lanes by:

- 3287 1. Emergency vehicles such as ~~fire fighting~~ firefighting vehicles, ambulances, and rescue  
3288 squad vehicles;<sub>;</sub>
- 3289 2. Law-enforcement vehicles;<sub>;</sub>
- 3290 3. Motorcycles;<sub>;</sub>
- 3291 4. a. Transit and commuter buses designed to transport 16 or more passengers, including  
3292 the driver;<sub>;</sub>
- 3293 b. Any vehicle operating under a certificate issued under § 46.2-2075, 46.2-2080, 46.2-  
3294 2096, 46.2-2099.4, or 46.2-2099.44;<sub>;</sub>
- 3295 5. Vehicles of public utility companies operating in response to an emergency call;<sub>;</sub>
- 3296 6. Vehicles bearing clean special fuel vehicle license plates issued pursuant to § 46.2-  
3297 749.3, provided such use is in compliance with federal law;<sub>;</sub>
- 3298 7. Taxicabs having two or more occupants, including the driver;<sub>;</sub> or

3299 8. (Contingent effective date, see Editor's note) Any active duty military member in  
3300 uniform who is utilizing Interstate Route 264 and Interstate Route 64 for the purposes of  
3301 traveling to or from a military facility in the Hampton Roads Planning District.

3302 In the Hampton Roads Planning District, HOV restrictions may be temporarily lifted and  
3303 HOV lanes opened to use by all vehicles when restricting use of HOV lanes becomes impossible  
3304 or undesirable and the temporary lifting of HOV limitations is indicated by signs along or above  
3305 the affected portion of highway.

3306 The Commissioner of ~~VDOT~~ [Highways](#) shall implement a program of the HOV  
3307 facilities in the Hampton Roads Planning District beginning not later than May 1, 2000. This  
3308 program shall include the temporary lifting of HOV restrictions and the opening of HOV lanes  
3309 to all traffic when an incident resulting from nonrecurring causes within the general lanes occurs  
3310 such that a lane of traffic is blocked or is expected to be blocked for 10 minutes or longer. The  
3311 HOV restrictions for the facility will be reinstated when the general lane is no longer blocked  
3312 and is available for use.

3313 The Commissioner [of Highways](#) shall maintain necessary records to evaluate the effects  
3314 of such openings on the operation of the general lanes and the HOV lanes. He shall report on the  
3315 effects of this program. This program will terminate if the Federal Highway Administration  
3316 requires repayment of any federal highway construction funds because of the program's impact  
3317 on the HOV facilities in Hampton Roads.

3318 B. In designating any lane or lanes of any highway as HOV lanes, the Board, or local  
3319 governing body as the case may be, shall specify the hour or hours of each day of the week  
3320 during which the lanes shall be so reserved, and the hour or hours shall be plainly posted at  
3321 whatever intervals along the lanes the Board or local governing body deems appropriate. Any  
3322 person driving a motor vehicle in a designated HOV lane in violation of this section ~~shall be is~~  
3323 guilty of a traffic infraction which shall not be a moving violation and on conviction shall be  
3324 fined \$100. However, violations committed within the boundaries of Planning District ~~Eight~~ [8](#)  
3325 shall be punishable as follows:

- 3326 | 1. For a first offense, by a fine of \$125;
- 3327 | 2. For a second offense within a period of five years from a first offense, by a fine of
- 3328 | \$250;
- 3329 | 3. For a third offense within a period of five years from a first offense, by a fine of \$500;
- 3330 | and
- 3331 | 4. For a fourth or subsequent offense within a period of five years from a first offense,
- 3332 | by a fine of \$1,000.

3333 |       Upon a conviction under this section, the court shall furnish to the Commissioner of the

3334 | Department of Motor Vehicles in accordance with § 46.2-383 an abstract of the record of such

3335 | conviction, which shall become a part of the person's driving record. Notwithstanding the

3336 | provisions of § 46.2-492, no driver demerit points shall be assessed for any violation of this

3337 | section, except that persons convicted of second, third, fourth, or subsequent violations within

3338 | five years of a first offense committed in Planning District ~~Eight~~ 8 shall be assessed three

3339 | demerit points for each such violation.

3340 |       C. In the prosecution of an offense, committed in the presence of a law-enforcement

3341 | officer, of failure to obey a road sign restricting a highway, or portion thereof, to the use of

3342 | high-occupancy vehicles, proof that the vehicle described in the HOV violation summons was

3343 | operated in violation of this section, together with proof that the defendant was at the time of

3344 | such violation the registered owner of the vehicle, shall constitute in evidence a rebuttable

3345 | presumption that such registered owner of the vehicle was the person who committed the

3346 | violation. Such presumption shall be rebutted if the registered owner of the vehicle testifies in

3347 | open court under oath that he was not the operator of the vehicle at the time of the violation. A

3348 | summons for a violation of this section may be executed in accordance with § 19.2-76.2. Such

3349 | rebuttable presumption shall not arise when the registered owner of the vehicle is a rental or

3350 | leasing company.

3351 |       D. Notwithstanding the provisions of § 19.2-76, whenever a summons for a violation of

3352 | this section is served in any county, city, or town, it may be executed by mailing by first-class

3353 mail a copy thereof to the address of the owner of the vehicle as shown on the records of the  
3354 Department of Motor Vehicles. If the summoned person fails to appear on the date of return set  
3355 out in the summons mailed pursuant to this section, the summons shall be executed in the  
3356 manner set out in § 19.2-76.3.

3357 No proceedings for contempt or arrest of a person summoned by mailing shall be  
3358 instituted for his failure to appear on the return date of the summons.

3359 E. Notwithstanding § ~~33.1-252~~ 33.2-XXX, high-occupancy vehicles having three or  
3360 more occupants (HOV-3) may be permitted to use the Omer L. Hirst-Adelard L. Brault  
3361 Expressway (Dulles Toll Road) without paying a toll.

3362 F. Notwithstanding the contrary provisions of this section, the following conditions shall  
3363 be met before the HOV-2 designation of Interstate Route 66 outside the Capital Beltway can be  
3364 changed to HOV-3 or any more restrictive designation:

3365 1. The Department of Transportation shall publish a notice of its intent to change the  
3366 existing designation and also immediately provide similar notice of its intent to all members of  
3367 the General Assembly representing districts that touch or are directly impacted by traffic on  
3368 Interstate Route 66.

3369 2. The Department of Transportation shall hold public hearings in the corridor to receive  
3370 comments from the public.

3371 3. The Department of Transportation shall make a finding of the need for a change in  
3372 such designation, based on public hearings and its internal data and present this finding to the  
3373 ~~Commonwealth Transportation~~ Board for approval.

3374 4. The ~~Commonwealth Transportation~~ Board shall make written findings and a decision  
3375 based upon the following criteria:

3376 a. Is changing the HOV-2 designation to HOV-3 in the public interest?

3377 b. Is there quantitative and qualitative evidence that supports the argument that HOV-3  
3378 will facilitate the flow of traffic on Interstate Route 66?

3379 c. Is changing the HOV-2 designation beneficial to comply with the federal Clean Air  
3380 Act Amendments of 1990?

3381 ~~G. [Repealed.]~~

3382 **Drafting note: Technical changes.**

3383 ~~§ 33.1-56.1 33.2-338. Definitions HOT lanes; definitions.~~

3384 ~~For purposes of this article As used in §§ 33.2-XXX through 33.2-XXX:~~

3385 ~~"Board" means the Commonwealth Transportation Board;~~

3386 "High-occupancy requirement" means the number of persons required to be traveling in  
3387 a vehicle for the vehicle to use HOT lanes without the payment of a toll. Emergency vehicles,  
3388 law-enforcement vehicles using HOT lanes in the performance of their duties, and mass transit  
3389 vehicles and commuter buses shall meet the high-occupancy requirement for HOT lanes,  
3390 regardless of the number of occupants in the vehicle.;

3391 "High-occupancy toll lanes" or "HOT lanes" means a portion of a highway containing  
3392 one or more travel lanes separated from other lanes; that has an electronic toll collection system,  
3393 provides for free passage by vehicles that meet the high-occupancy requirement, and contains a  
3394 photo-enforcement system for use in such electronic toll collection. HOT lanes shall not be a  
3395 "toll facility" or "HOV lanes" for the purposes of any other provision of law or regulation.;

3396 "HOT lanes operator" means the operator of the facility containing HOT lanes, which  
3397 may include the ~~Virginia~~ Department ~~of Transportation~~ or some other entity.;

3398 "Mass transit vehicles" and "commuter buses" mean vehicles providing a scheduled  
3399 transportation service to the general public. Such vehicles shall comprise nonprofit, publicly or  
3400 privately owned or operated transportation services, programs, or systems that may be funded  
3401 pursuant to § 58.1-638.;

3402 "Owner" means the registered owner of a vehicle on record with the Department of  
3403 Motor Vehicles, or with the equivalent agency in another state. "Owner" does not mean a  
3404 vehicle rental or vehicle leasing company.;

3405 "Photo-enforcement system" means a sensor installed in conjunction with a toll  
3406 collection device to detect the presence of a vehicle that automatically produces one or more  
3407 photographs, one or more microphotographs, a videotape, or other recorded images of each  
3408 vehicle's license plate at the time it is detected by the toll collection device;~~and,~~

3409 "Unauthorized vehicle" means a motor vehicle that is restricted from use of the HOT  
3410 lanes pursuant to subdivision ~~D-1-X~~ of § ~~33.1-56.3~~ 33.2-XXX.

3411 **Drafting note: The definition of Board is stricken and moved to the general**  
3412 **definitions section in proposed § 33.2-100. Technical changes are made.**

3413 § ~~33.1-56.2~~ 33.2-339. Designation of HOT lanes.

3414 The Board may designate one or more lanes of any highway, including lanes that may  
3415 previously have been designated HOV lanes under § ~~33.1-46.2~~ 33.2-XXX, in the ~~interstate~~  
3416 ~~system of highways~~ Interstate System, primary state highway ~~system of highways~~, or ~~national~~  
3417 ~~highway system~~ National Highway System, or any portion thereof, as high-occupancy toll lanes,  
3418 or HOT lanes. In making HOT lanes designations, the Board shall also specify the high-  
3419 occupancy requirement and conditions for use of such HOT lanes, or may authorize the  
3420 Commissioner to make such determination consistent with the terms of a comprehensive  
3421 agreement executed pursuant to § ~~56-566~~ 33.2-XXX. The high-occupancy requirement for a  
3422 HOT lanes facility constructed or operated as a result of the Public-Private Transportation Act  
3423 (§ ~~56-556~~ 33.2-XXX et seq.) shall not be less than three.

3424 **Drafting note: Technical changes.**

3425 § ~~33.1-56.3~~ 33.2-340. HOT lanes enforcement.

3426 Any person operating a motor vehicle on designated HOT lanes shall make  
3427 arrangements with the HOT lanes operator for payment of the required toll prior to entering  
3428 such HOT lanes. The driver of a vehicle who enters the HOT lanes in an unauthorized vehicle,  
3429 in violation of the conditions for use of such HOT lanes established pursuant to § ~~33.1-56.2~~  
3430 33.2-XXX, without payment of the required toll, or without having made arrangements with the

3431 HOT lanes operator for payment of the required toll, shall have committed a violation of this  
3432 section, which may be enforced in the following manner:

3433 A-1. On a form prescribed by the Supreme Court, a summons for civil violation of this  
3434 section may be executed by a law-enforcement officer, when such violation is observed by such  
3435 officer. The form shall contain the option for the driver of the vehicle to prepay all penalties,  
3436 unpaid toll, administrative fees, and costs.

3437 B-1-2. a. A HOT lanes operator shall install and operate, or cause to be installed or  
3438 operated, a photo-enforcement system at locations where tolls are collected for the use of such  
3439 HOT lanes.

3440 2-b. A summons for civil violation of this section may be executed pursuant to this  
3441 ~~subsection~~ subdivision, when such violation is evidenced by information obtained from a photo-  
3442 enforcement system as defined in this article. A certificate, sworn to or affirmed by a technician  
3443 employed or authorized by the HOT lanes operator, or a facsimile of such a certificate, based on  
3444 inspection of photographs, microphotographs, videotapes, or other recorded images produced by  
3445 a photo-enforcement system, shall be prima facie evidence of the facts contained therein. Any  
3446 photographs, microphotographs, videotape, or other recorded images evidencing such a  
3447 violation shall be available for inspection in any proceeding to adjudicate the liability for such  
3448 violation under this ~~subsection~~ subdivision. Any vehicle rental or vehicle leasing company, if  
3449 named in a summons, shall be released as a party to the action if it provides the HOT lanes  
3450 operator a copy of the vehicle rental agreement or lease or an affidavit identifying the renter or  
3451 lessee prior to the date of hearing set forth in the summons. Upon receipt of such rental  
3452 agreement, lease, or affidavit, a summons shall be issued for the renter or lessee identified  
3453 therein. Release of this information shall not be deemed a violation of any provision of the  
3454 Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) or the  
3455 Insurance Information and Privacy Protection Act (§ 38.2-600 et seq.).

3456 3-c. On a form prescribed by the Supreme Court, a summons issued under this  
3457 ~~subsection~~ subdivison may be executed pursuant to § 19.2-76.2. Such form shall contain the

3458 option for the driver or registered owner to prepay all penalties, unpaid toll, administrative fees,  
3459 and costs. HOT lanes operator personnel or their agents mailing such summons shall be  
3460 considered conservators of the peace for the sole and limited purpose of mailing such summons.  
3461 Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be  
3462 executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle  
3463 as shown on the records of the Department of Motor Vehicles or, if the registered owner has  
3464 named and provided a valid address for the operator of the vehicle at the time of the violation in  
3465 an affidavit executed pursuant to this ~~subsection~~ subdivision, such named operator of the  
3466 vehicle. If the summoned person fails to appear on the date of return set out in the summons  
3467 mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-  
3468 76.3.

3469 4-d. The registered owner of such vehicle shall be given reasonable notice by way of a  
3470 summons as provided in this ~~subsection~~ subdivision that his vehicle had been used in violation  
3471 of this section, and such owner shall be given notice of the time and place of the hearing and  
3472 notice of the civil penalty and costs for such offense.

3473 Upon the filing of an affidavit with the court at least 14 days prior to the hearing date by  
3474 the registered owner of the vehicle stating that he was not the driver of the vehicle on the date of  
3475 the violation and providing the legal name and address of the driver of the vehicle at the time of  
3476 the violation, a summons will also be issued to the alleged driver of the vehicle at the time of the  
3477 offense. The affidavit shall constitute prima facie evidence that the person named in the affidavit  
3478 was driving the vehicle at all the relevant times relating to the matter named in the affidavit.

3479 If the registered owner of the vehicle produces a certified copy of a police report  
3480 showing that the vehicle had been reported to the police as stolen prior to the time of the alleged  
3481 offense and remained stolen at the time of the alleged offense, then the court shall dismiss the  
3482 summons issued to the registered owner of the vehicle.

3483 C. 1-3. a. The HOT lanes operator may impose and collect an administrative fee in  
3484 addition to the unpaid toll so as to recover the expenses of collecting the unpaid toll, which

3485 administrative fee shall be reasonably related to the actual cost of collecting the unpaid toll and  
3486 not exceed \$100 per violation. The operator of the vehicle shall pay the unpaid tolls and any  
3487 administrative fee detailed in a notice or invoice issued by a HOT lanes operator. If paid within  
3488 30 days of notification, the administrative fee shall not exceed \$25.

3489 2-b. Upon a finding by a court of competent jurisdiction that the driver of the vehicle  
3490 observed by a law-enforcement officer under ~~subsection A subdivision 1~~, or the vehicle  
3491 described in the summons for civil violation issued pursuant to evidence obtained by a photo-  
3492 enforcement system under ~~subsection B subdivision 2~~ was in violation of this section, the court  
3493 shall impose a civil penalty upon the driver of such vehicle issued a summons under ~~subsection~~  
3494 ~~A subdivision 1~~, or upon the driver or registered owner of such vehicle issued a summons under  
3495 ~~subsection B subdivision 2~~, payable to the HOT lanes operator as follows: for a first offense,  
3496 \$50; for a second offense, \$250; for a third offense within a period of two years of the second  
3497 offense, \$500; and for a fourth and subsequent offense within a period of three years of the  
3498 second offense, \$1,000, together with, in each case, the unpaid toll, all accrued administrative  
3499 fees imposed by the HOT lanes operator as authorized by this section, and applicable court  
3500 costs. The court shall remand penalties, unpaid toll, and administrative fees assessed for  
3501 violation of this section to the treasurer or director of finance of the county or city in which the  
3502 violation occurred for payment to the HOT lanes operator for expenses associated with  
3503 operation of the HOT lanes and payments against any bonds or other liens issued as a result of  
3504 the construction of the HOT lanes. No person shall be subject to prosecution under both  
3505 ~~subsections A and B subdivisions 1 and 2~~ for actions arising out of the same transaction or  
3506 occurrence.

3507 3-c. Upon a finding by a court that a person has violated this section, in the event such  
3508 person fails to pay the required penalties, fees, and costs, the court shall notify the  
3509 Commissioner of the Department of Motor Vehicles, who shall suspend all of the registration  
3510 certificates and license plates issued for any motor vehicles registered solely in the name of such  
3511 person and shall not issue any registration certificate or license plate for any other vehicle that

3512 such person seeks to register solely in his name until the court has notified the Commissioner of  
3513 the Department of Motor Vehicles that such penalties, fees, and costs have been paid. The HOT  
3514 lanes operator and the Commissioner of the Department of Motor Vehicles may enter into an  
3515 agreement whereby the HOT lanes operator may reimburse the Department of Motor Vehicles  
3516 for their reasonable costs to develop, implement, and maintain this enforcement mechanism, and  
3517 that specifies that the Commissioner of the Department of Motor Vehicles shall have an  
3518 obligation to suspend such registration certificates so long as the HOT lanes operator makes the  
3519 required reimbursements in a timely manner in accordance with the agreement.

3520 4-d. Except as provided in ~~subsections D and E subdivisions 4 and 5~~, imposition of a  
3521 civil penalty pursuant to this section shall not be deemed a conviction as an operator of a motor  
3522 vehicle under Title 46.2 and shall not be made part of the driving record of the person upon  
3523 whom such civil penalty is imposed, nor shall it be used for insurance purposes in the provision  
3524 of motor vehicle insurance coverage.

3525 D.1.4. a. The HOT lanes operator may restrict the usage of the HOT lanes to designated  
3526 vehicle classifications pursuant to an interim or final comprehensive agreement executed  
3527 pursuant to § ~~56-566 or 56-566.1~~ 33.2-XXX. Notice of any such vehicle classification  
3528 restrictions shall be provided through the placement of signs or other markers prior to and at all  
3529 HOT lanes entrances.

3530 2-b. Any person driving an unauthorized vehicle on the designated HOT lanes ~~shall be is~~  
3531 guilty of a traffic infraction, which shall not be a moving violation, and shall be punishable as  
3532 follows: for a first offense, by a fine of \$125; for a second offense within a period of five years  
3533 from a first offense, by a fine of \$250; for a third offense within a period of five years from a  
3534 first offense, by a fine of \$500; and for a fourth and subsequent offense within a period of five  
3535 years from a first offense, by a fine of \$1,000.

3536 Upon a conviction under this ~~subsection~~ subdivision, the court shall furnish to the  
3537 Commissioner of the Department of Motor Vehicles, in accordance with § 46.2-383, an abstract  
3538 of the record of such conviction that shall become a part of the person's driving record.

3539 Notwithstanding the provisions of § 46.2-492, no driver demerit points shall be assessed for any  
3540 violation of this subsection, except that persons convicted of a second, third, fourth, or  
3541 subsequent violation within five years of a first offense shall be assessed three demerit points for  
3542 each such violation.

3543 E-5. The driver of a vehicle who enters the HOT lanes by crossing through any barrier,  
3544 buffer or other area separating the HOT lanes from other lanes of travel shall have committed a  
3545 violation of § 46.2-852. No person shall be subject to both prosecution under this ~~subsection~~  
3546 subdivision and under ~~subsection A, B, or D~~ subdivision 1, 2, or 4 for actions arising out of the  
3547 same transaction or occurrence.

3548 Upon a conviction under this ~~subsection~~ subdivision, the court shall furnish to the  
3549 Commissioner of the Department of Motor Vehicles in accordance with § 46.2-383 an abstract  
3550 of the record of such conviction, which shall become a part of the convicted person's driving  
3551 record.

3552 F-6. No person shall be subject to prosecution under both this section and under § ~~33.1-~~  
3553 ~~46.2~~ 33.2-xx, 46.2-819 or 46.2-819.1 for actions arising out of the same transaction or  
3554 occurrence.

3555 G-7. Any action under this section shall be brought in the general district court of the  
3556 county or city in which the violation occurred.

3557 **Drafting note: Technical changes.**

3558 § ~~33.1-56.4~~ 33.2-341. Release of personal information to or by HOT lanes operators;  
3559 penalty.

3560 A. The HOT lanes operator may enter into an agreement with the Department of Motor  
3561 Vehicles, in accordance with the provisions of subdivision B 21 ~~of subsection B~~ of § 46.2-208,  
3562 to obtain vehicle owner information regarding the registered owners of vehicles that use HOT  
3563 lanes, and with the Department of Transportation to obtain any information that is necessary to  
3564 conduct electronic toll collection and otherwise operate HOT lanes. No HOT lanes operator  
3565 shall disclose or release any personal information received from the Department of Motor

3566 Vehicles or the Department of Transportation to any third party, except in the issuance of a  
3567 summons and institution of court proceedings in accordance with § ~~33.1-56.3~~ 33.2-XXX.  
3568 Information in the possession of a HOT lanes operator under this section shall be exempt from  
3569 disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

3570 B. Information collected by a photo-enforcement system shall be limited exclusively to  
3571 that information that is necessary for the collection of unpaid tolls. Notwithstanding any other  
3572 provision of law, all photographs, microphotographs, electronic images, or other data collected  
3573 by a photo-enforcement system shall be used exclusively for the collection of unpaid tolls and  
3574 shall not (i) be open to the public; (ii) be sold ~~and/or or~~ used for sales, solicitation, or marketing  
3575 purposes; (iii) be disclosed to any other entity except as may be necessary for the collection of  
3576 unpaid tolls or to a vehicle owner or operator as part of a challenge to the imposition of a toll;  
3577 and (iv) be used in a court in a pending action or proceeding unless the action or proceeding  
3578 relates to a violation of § ~~33.1-56.3~~ 33.2-XXX or upon order from a court of competent  
3579 jurisdiction. Information collected under this section shall be purged and not retained later than  
3580 30 days after the collection and reconciliation of any unpaid tolls, administrative fees, ~~and/or or~~  
3581 civil penalties. Any entity operating a photo-enforcement system shall annually certify  
3582 compliance with this section and make all records pertaining to such system available for  
3583 inspection and audit by the Commissioner of Highways or the Commissioner of the Department  
3584 of Motor Vehicles or their designee. Any violation of this subsection ~~shall constitute~~ constitutes  
3585 a Class 1 misdemeanor. In addition to any fines or other penalties provided for by law, any  
3586 money or other thing of value obtained as a result of a violation of this section shall be forfeited  
3587 to the Commonwealth.

3588 **Drafting note: Technical changes.**

3589 § ~~33.1-56.5~~ 33.2-342. Exclusion of HOT lanes from certain other laws.

3590 Notwithstanding any other provision of law, the provisions of §§ 22.1-187, ~~33.1-46.2,~~  
3591 ~~33.1-252~~ 33.2-XXX, 33.2-XXX, 46.2-819, and 46.2-819.1 shall not apply to HOT lanes.

3592 **Drafting note: Technical changes.**

3593 Article 9.

3594 Toll Facilities and Ferries.

3595 **Drafting note: Proposed Article 9 of Chapter 2 is a new article combining all**  
3596 **sections on ferries, toll bridges, and toll facilities.**

3597 § ~~33.1-254~~ 33.2-343. Acquisition or establishment of ferries.

3598 The ~~Commonwealth Transportation~~ Board may acquire by purchase, condemnation, or  
3599 gift any ferry within the Commonwealth ~~which that~~ forms a connecting link in a state highway  
3600 and may purchase all equipment and other things necessary for the establishment of new ferries  
3601 to become connecting links in the primary or secondary state highway systems, whenever it  
3602 shall determine such action to be advisable and expedient. The Board may expend from state  
3603 highway construction funds of the highway construction district or districts where the ferries are  
3604 located and are under its control at any time such sums as may be necessary to acquire or  
3605 establish, maintain, and operate any such ferry.

3606 The Board may operate such ferry either as a free or toll ferry and may establish a toll  
3607 for the use of such ferry at such rates as are deemed by the Board to be reasonable and proper  
3608 without regulation by any other governmental body.

3609 **Drafting note: Technical changes.**

3610 § ~~33.1-247~~ 33.2-344. Ferry across Corrotoman River.

3611 The public free ferry across the Corrotoman River, in the County of Lancaster,  
3612 authorized by the act of ~~the twelfth of~~ March 12, 1847, shall be kept according to such act,  
3613 except as otherwise provided in this section ~~provided, that is to say~~. The Circuit Court of  
3614 Lancaster may, in its discretion, have the contract for keeping the same let to the lowest bidder  
3615 for a period of five years, and the bonds thereby directed shall be to the County of Lancaster  
3616 instead of the justices thereof. Furthermore, the ferry shall cross from Merry Point to the upper  
3617 side of the wharf and canning factory at Ottoman wharf; ~~provided, that~~. However, the circuit  
3618 court of the county shall have the right, upon the application of the board of supervisors, to  
3619 discontinue the ferry if it ~~shall be made to appear~~ appears that public necessity therefor no

3620 longer exists. No such application shall be made unless and until notice thereof, to whom it may  
3621 concern, be given by publication once a week for two successive weeks in some newspaper  
3622 published in the county, or having general circulation therein, and by posting copies of the  
3623 notice at the front door of the courthouse of the county and at both landings of the ferry, such  
3624 notice to be so posted, and the first publication thereof made, at least ~~thirty~~ 30 days before the  
3625 day on which the application will be made to the court.

3626 **Drafting note: Technical changes.**

3627 § ~~33.1-255~~ 33.2-345. Toll bridges; when privilege ceases.

3628 When an act is passed to authorize the erection of a toll bridge, if the work be not  
3629 commenced within one year from the passage of such act or be not completed within two years  
3630 after such commencement or if, after its completion, there be an abandonment of the bridge or a  
3631 failure for three successive years to keep it in good order, the privileges granted by the act shall  
3632 cease.

3633 **Drafting note: Technical change.**

3634 § ~~33.1-256~~ 33.2-346. Bridge Toll bridges not to obstruct navigation or fish.

3635 Every such toll bridge shall be ~~so~~ made so as not to obstruct the navigation of the  
3636 watercourse over which it is erected ~~nor~~ or the passage of fish.

3637 **Drafting note: This section was previously located in an article exclusively**  
3638 **regarding toll facilities and so it is amended to refer to "toll bridges" rather than**  
3639 **"bridges."**

3640 § ~~33.1-257~~ 33.2-347. How right to demand tolls ascertained and rates fixed or changed.

3641 No tolls shall be received for passing any such bridge until it shall appear to the circuit  
3642 court of the county wherein the same is that it is completed according to the act authorizing it.  
3643 The court shall ascertain whether it is or is not so completed by appointing three disinterested  
3644 freeholders to view it. If they report in writing that it is so completed and their report be  
3645 confirmed by the court, the person authorized to erect it, his heirs or assigns, may thenceforth  
3646 demand and receive, on persons and things passing the same, tolls at the rates fixed by such act

3647 or, if none be so fixed, then at such rates as may, from time to time, be fixed by law. Though  
3648 rates of toll be specified in such act, they may, from time to time, be changed by law, unless in  
3649 such act otherwise expressly provided.

3650 **Drafting note: Technical change.**

3651 § ~~33.1-258~~ 33.2-348. Appointment of special police officers in connection with toll  
3652 bridges; qualifications, salaries, and fees of such police officers.

3653 A. The circuit court of any county, ~~or the judge thereof in vacation,~~ in which there is a  
3654 toll bridge or its approaches, or the circuit court of any county, ~~or the judge thereof in vacation,~~  
3655 in which lies any part of any toll bridge, or bridges, or their approaches belonging to the same  
3656 proprietor, but which bridge or bridges ~~and/or or~~ their approaches lie in more than one county or  
3657 counties, may, upon the application of such proprietor, appoint any employee of such proprietor,  
3658 employed in and about the control or the operation of such bridge or bridges and approaches, a  
3659 special police officer, who may exercise all the powers and duties imposed and conferred upon  
3660 sheriffs in ~~this~~ the Commonwealth, in criminal matters, upon any such bridge, or bridges and  
3661 their approaches. ~~And such~~ Such power shall extend throughout the Commonwealth when such  
3662 special police officer is actually in pursuit of a person accused of crime, or when acting under  
3663 authority of a warrant duly issued for the arrest of a person charged with a crime. ~~But~~ However,  
3664 no special policeman appointed under this section whose duties as such special policeman are  
3665 merely incidental to such private employment shall be deemed to be an employee of the  
3666 Commonwealth or county or counties within which such bridges and their approaches lie,  
3667 within the meaning of the Virginia Workers' Compensation Act.

3668 § ~~33.1-259~~. ~~Qualifications of such police.~~

3669 B. Before any such appointment is made the court, or judge thereof in vacation, shall be  
3670 satisfied that such person has been a bona fide resident of ~~this~~ the Commonwealth for more than  
3671 one year immediately preceding such appointment and is of good moral character. ~~And before~~  
3672 Before any such person shall be permitted to discharge any of the duties of such special  
3673 policeman, he shall take the oath required by law and shall give a bond payable to the

3674 Commonwealth ~~of Virginia~~ in the penalty of not less than \$500, conditioned for the faithful  
3675 discharge of his official duties.

3676 ~~§ 33.1-260. Salary and fees.~~

3677 C. No salary shall be paid to any special police officer appointed under § ~~33.1-258~~ 33.2-  
3678 XXX by the Commonwealth or county, or counties, in which such properties lie; nor shall he  
3679 receive any fees for making any arrest, executing any warrant, summoning a witness, or  
3680 carrying a person to or from jail.

3681 **Drafting note: Three short sections dealing with a single subject are combined;**  
3682 **technical changes are made. Drafters are unsure if these officers are still in existence; these**  
3683 **sections have not been amended since the Code of 1950.**

3684 ~~§ 33.1-261~~ 33.2-349. Permission required to erect or maintain toll bridges over navigable  
3685 water.

3686 No toll bridge erected after March 19, 1928, shall be constructed, maintained, or  
3687 operated across, in, or over any navigable waters in or of ~~this the~~ Commonwealth, anything in  
3688 the charter of any company to the contrary notwithstanding, unless and until a permit therefor be  
3689 first obtained from the ~~Commonwealth Transportation~~ Board. The Board may grant or withhold  
3690 such permit or prescribe the terms and conditions thereof, as it may deem for the best interest of  
3691 the Commonwealth, except so far as such terms and conditions may be provided for herein.

3692 **Drafting note: Technical change.**

3693 ~~§ 33.1-262~~ 33.2-350. Approval of plans by Board; inspection; costs.

3694 Before construction is commenced on any such bridge or approaches under any permit  
3695 granted hereunder, detailed plans, estimates, and specifications must be submitted to the Board  
3696 for approval, and no such bridge shall be constructed unless and until such plans, estimates, and  
3697 specifications shall have been approved by the Board. Access to such work at all times during  
3698 construction shall be granted to the Board, the Commissioner of Highways, and authorized  
3699 representatives of either. The permittee shall keep accurate records of the cost of such bridge

3700 and approaches and real and personal property used in the operation thereof and of all  
3701 replacements and repairs and shall submit a copy thereof to the Board.

3702 **Drafting note: Technical changes.**

3703 ~~§ 33.1-263.~~

3704 **Drafting note: Repealed by Acts 1995, c. 647.**

3705 ~~§ 33.1-264~~ 33.2-351. Toll bridges may be purchased by Commonwealth.

3706 In addition to the power of eminent domain as provided by law for ~~roads~~ highways in the  
3707 ~~State Highway System~~ primary state highway system, the Commonwealth, acting through the  
3708 Commissioner of Highways, may purchase any such toll bridge and the approaches thereto with  
3709 the real estate and tangible personal property necessary for their proper operation, at such time  
3710 as may be specified in the permit granted for such toll bridge, or at the expiration of any two-  
3711 year period after such time, all at a price equal to the original cost, to be determined as  
3712 hereinafter provided, less depreciation.

3713 In order to exercise the right of the Commonwealth to purchase and take over any such  
3714 toll bridge and approaches and real estate and tangible personal property, the Commonwealth,  
3715 through the Commissioner of Highways, shall give to the permittee, or its successor in title of  
3716 record to such toll bridge and other property, not less than two months' notice of its intention so  
3717 to do specifying the date on which the conveyance will be required. Title to such toll bridge and  
3718 approaches and property shall be vested in the Commonwealth free of lien at the time set out in  
3719 such notice and upon the payment or offer of the purchase price determined in accordance with  
3720 ~~this article §§ 33.2-XXX through 33.2-XXX~~, to such permittee or successor in title of record to  
3721 such toll bridge and other property, or to the trustee or trustees, or mortgagor or mortgagees in  
3722 any deed of trust or mortgage on such property, or to the lien creditor or creditors, as their  
3723 interest may appear of record.

3724 The original cost of such toll bridge and approaches and real estate and tangible personal  
3725 property shall be determined by the Commissioner of Highways and shall include the actual cost  
3726 thereof and an additional amount equal to interest at the rate of six percent per annum on the

3727 amount actually invested by such permittee, or successor in title of record, in such property, or  
3728 in hand for investment therein, during the period of construction. There shall be included in  
3729 "actual costs" all costs including the cost of improvements, financing charges, cost of traffic  
3730 estimate and of engineering and legal expenses, plans, specifications and surveys, estimates of  
3731 cost and of revenue, other expenses necessary or incident to determining the feasibility or  
3732 practicability of the enterprise, administrative expenses and such other expenses as may be  
3733 necessary or incident to the financing of the project and the placing of the project in operation.  
3734 The Commissioner [of Highways](#) shall determine the depreciation and the reasonableness of each  
3735 item of "actual cost."

3736 **Drafting note: Technical changes.**

3737 § ~~33.1-265~~ [33.2-352](#). Conveyance of toll bridge by Commonwealth.

3738 In the event any such [toll](#) bridge, at the time it may be purchased by the Commonwealth  
3739 under the provisions of ~~this article §§ 33.2-XXX through 33.2-XXX~~, is not on the line of a ~~road~~  
3740 [highway](#) then in one of the systems of state highways, the Commissioner of Highways may  
3741 convey such [toll](#) bridge and approaches and other property to such county or counties in which  
3742 it may be in whole or in part located, upon the payment by such county or counties of the  
3743 amount paid by the Commonwealth for ~~such~~ [such toll](#) bridge and approaches and other property,  
3744 with interest on such amount at six ~~per centum per annum~~ [percent per year](#) from the time of  
3745 such payment by the Commonwealth, such conveyance to be executed in the name and on  
3746 behalf of the Commonwealth by the Commissioner of Highways.

3747 **Drafting note:**

3748 § ~~33.1-266~~ [33.2-353](#). Sections ~~33.1-261~~ [33.2-xxx](#) through ~~33.1-265~~ [33.2-xxx](#) not  
3749 applicable to certain b[[Nicole Brenner](#)]ridges.

3750 Nothing contained in §§ ~~33.1-261~~ [33.2-xxx](#) through ~~33.1-265~~ [33.2-xxx](#), ~~however~~, shall  
3751 be construed to apply to any bridge existing or under construction on March 20, 1928, or to  
3752 bridges constructed within or adjacent to towns or cities having a population of more than 3,500.

3753           **Drafting note: Former §§ 33.1-255 through 33.1-266 (with the exception of one**  
3754 **technical amendment) have not been amended since 1970, when this title was last revised.**  
3755 **That revision made no changes to these sections. It would appear that these same sections**  
3756 **are obsolete and should be repealed.**

3757           § ~~33.1-223.2-12~~ 33.2-354. Tolls may vary to encourage travel during off-peak hours.

3758           A. In order to provide an incentive for motorists to travel at off-peak hours, and in  
3759 accordance with federal requirements, wherever a toll is imposed and collected by the  
3760 Department or such other entity as may be responsible for imposing or collecting such toll, the  
3761 amount of such toll may vary according to the time of day, day of the week, traffic volume,  
3762 vehicle speed, vehicle type, similar variables, or combinations thereof. The amount of such toll  
3763 and the time of day when such toll shall change shall be as fixed and revised by the  
3764 ~~Commonwealth Transportation~~ Board or such other entity as may be responsible for fixing or  
3765 revising the amount of such toll; provided, however, that any such variation shall be reasonably  
3766 calculated to minimize the reduction in toll revenue generated by such toll.

3767           B. 1. Beginning July 1, 2008, every agency of the Commonwealth or any political  
3768 subdivision or instrumentality thereof having control of or day-to-day responsibility for the  
3769 operation of any toll facility in the Commonwealth shall take all necessary actions to ensure that  
3770 every newly constructed toll facility under its control is capable of fully automated electronic  
3771 operation, employing technologies and procedures that permit the collection of tolls from users  
3772 of the facility, to the extent possible, without impeding the traffic flow of the facility. An entity  
3773 operating a toll facility that substantially upgrades its equipment or substantially renovates its  
3774 facility after July 1, 2008, shall comply with the provisions of this subsection. The provisions of  
3775 this section shall also apply to any nongovernmental or quasigovernmental entity operating a  
3776 toll facility under a comprehensive agreement entered into, pursuant to the Public-Private  
3777 Transportation Act of 1995 (§ ~~56-556-33.2-XXX~~ et seq.), on or after January 1, 2008. Nothing  
3778 in this subsection shall be construed to prohibit a toll facility from retaining means of  
3779 nonautomated toll collection in some lanes of the facility.

3780 2. For toll facilities within the territory embraced by the Northern Virginia  
3781 Transportation Authority, the provisions of subdivision 1 apply to all toll facilities, regardless of  
3782 whether or not they are newly constructed or substantially upgraded.

3783 **Drafting note: Technical changes.**

3784 § ~~33.1-251~~ 33.2-355. Unlawful for Department of Transportation to permit free passage  
3785 over certain toll bridges and ferries; exceptions.

3786 Except for those persons exempted from tolls under § ~~33.1-252~~ 33.2-x, it shall be  
3787 unlawful for the Department ~~of Transportation~~ or any employee thereof to give or permit free  
3788 passage over any bridge, tunnel or ferry which has been secured through the issuance of revenue  
3789 bonds and which bonds are payable from the revenues of such project. Every vehicle shall pay  
3790 the same toll as others similarly situated. Except as provided in § ~~33.1-252~~ 33.2-x, the  
3791 provisions hereof shall apply ~~with full force and effect~~ to vehicles and employees of the state  
3792 government, local governments ~~of counties, cities and towns~~ or other political subdivisions, and  
3793 to vehicles and persons of all other categories and descriptions, public, private, eleemosynary, or  
3794 otherwise.

3795 **Drafting note: Technical changes.**

3796 § ~~33.1-252~~ 33.2-356. Free use of toll facilities by certain state officers and employees;  
3797 penalties.

3798 A. Vehicles transporting two or more persons, including the driver, may be permitted  
3799 toll-free use of the Dulles Toll Road during rush hours by the ~~Commonwealth Transportation~~  
3800 Board; however, notwithstanding the provisions of subdivision B 1 of § ~~56-543~~ 33.2-XXX said  
3801 vehicles shall not be permitted toll-free use of a roadway as defined pursuant to the Virginia  
3802 Highway Corporation Act of 1988 (§ ~~56-535~~ 33.2-x et seq.). Upon presentation of a toll pass  
3803 issued pursuant to regulations promulgated by the ~~Commonwealth Transportation~~ Board, the  
3804 following persons may use all toll bridges, toll ferries, toll tunnels, and toll roads in ~~this the~~  
3805 Commonwealth without the payment of toll while in the performance of their official duties:

3806 1. The Commissioner of Highways;

- 3807** 2. Members of the Commonwealth Transportation Board;
- 3808** 3. Employees of the Virginia Department of Transportation;
- 3809** 4. The Superintendent of the Department of State Police;
- 3810** 5. Officers and employees of the Department of State Police;
- 3811** 6. Members of the Alcoholic Beverage Control Board;
- 3812** 7. Employees of the regulatory and hearings divisions of the Department of Alcoholic
- 3813** Beverage Control and special agents of the Department of Alcoholic Beverage Control;
- 3814** 8. The Commissioner of the Department of Motor Vehicles;
- 3815** 9. Employees of the Department of Motor Vehicles;
- 3816** 10. Local police officers;
- 3817** 11. Sheriffs and their deputies;
- 3818** 12. Regional jail officials;
- 3819** 13. Animal wardens;
- 3820** 14. The Director and officers of the Department of Game and Inland Fisheries;
- 3821** 15. Persons operating ~~fire-fighting~~ firefighting equipment and ambulances owned by a
- 3822** political subdivision of the Commonwealth or a nonprofit association or corporation;
- 3823** 16. Operators of school buses being used to transport pupils to or from schools;
- 3824** 17. Operators of (i) commuter buses having a capacity of 20 or more passengers,
- 3825** including the driver, and used to regularly transport workers to and from their places of
- 3826** employment and (ii) public transit buses;
- 3827** 18. Employees of the Department of Rail and Public Transportation;
- 3828** 19. Employees of any transportation facility created pursuant to the Virginia Highway
- 3829** Corporation Act of 1988; and
- 3830** 20. Law-enforcement officers of the Virginia Marine Resources Commission.
- 3831** B. Notwithstanding the ~~foregoing~~ provision of ~~this~~ subsection A requiring presentation
- 3832** of a toll pass for toll-free use of such facilities, in cases of emergency and circumstances of
- 3833** concern for public safety on the highways of the Commonwealth, the Department of

3834 [Transportation](#) shall, in order to alleviate an actual or potential threat or risk to the public's  
3835 safety, facilitate the flow of traffic on or within the vicinity of the toll facility by permitting the  
3836 temporary suspension of toll collection operations on its facilities.

3837 ~~a.1.~~ The assessment of the threat to public safety shall be performed and the decision  
3838 temporarily to suspend toll collection operations shall be made by the Commissioner of  
3839 [Highways](#) or his designee.

3840 ~~b.2.~~ Major incidents that may require the temporary suspension of toll collection  
3841 operations shall include, ~~but not necessarily be limited to~~ (i) natural disasters such as hurricanes,  
3842 tornadoes, fires, and floods; (ii) accidental releases of hazardous materials such as chemical  
3843 spills; (iii) major traffic accidents, such as multivehicle collisions; and (iv) other incidents  
3844 deemed to present a risk to public safety.

3845 ~~e.3.~~ In any judicial proceeding in which a person is found to be criminally responsible  
3846 or civilly liable for any incident resulting in the suspension of toll collections as provided in this  
3847 subsection, the court may assess against the person an amount equal to lost toll revenue as a part  
3848 of the costs of the proceeding and order that such amount, not to exceed \$2,000 for any  
3849 individual incident, be paid to the Department of Transportation for deposit into the toll road  
3850 fund.

3851 ~~B.C.~~ Any tollgate keeper who shall refuse to permit the persons listed in subsection A ~~of~~  
3852 ~~this section to pass through such tollgate or over such~~ use any toll bridge ~~or, toll~~ ferry, ~~or toll~~  
3853 ~~road or~~ toll tunnel, or toll road upon presentation of such a toll pass, ~~shall be is~~ guilty of a  
3854 misdemeanor ~~and punished~~ punishable by a fine of not more than \$50; and not less than \$2.50.  
3855 Any person other than those listed in subsection A who shall exhibit any such toll pass for the  
3856 purpose of using any toll bridge, toll ferry, toll tunnel ~~or ferry shall be,~~ or toll road is guilty of a  
3857 Class 1 misdemeanor ~~and punished accordingly~~.

3858 ~~B1.D.~~ Any vehicle operated by the holder of a valid driver's license issued by ~~Virginia~~  
3859 the Commonwealth or any other state shall be allowed free use of all toll bridges, toll roads, and  
3860 other toll facilities in ~~Virginia~~ the Commonwealth if:

3861 1. The vehicle is specially equipped to permit its operation by a handicapped person;  
3862 2. The driver of the vehicle has been certified, either by a physician licensed by ~~Virginia~~  
3863 [the Commonwealth](#) or any other state or by the Adjudication Office of the ~~United States~~ [U.S.](#)  
3864 [Department of Veterans Administration Affairs](#), as being severely physically disabled and  
3865 having permanent upper limb mobility or dexterity impairments ~~which that~~ substantially impair  
3866 his ability to deposit coins in toll baskets;

3867 3. The driver has applied for and received from the Department of Transportation a  
3868 vehicle window sticker identifying him as eligible for such free passage; and

3869 4. Such identifying window sticker is properly displayed on the vehicle.

3870 A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll  
3871 facilities in ~~Virginia~~ [the Commonwealth](#). The Department of Transportation shall provide  
3872 envelopes for payments of tolls by those persons exempted from tolls pursuant to this subsection  
3873 and shall accept any payments made by such persons.

3874 ~~C. E.~~ Nothing contained in this section or in § ~~33.1-251 or 33.1-285~~ [33.2-XXX](#) shall  
3875 operate to affect the provisions of § 22.1-187.

3876 ~~D. F.~~ Notwithstanding the provisions of subsections A ~~and~~, B, [and C](#), only the following  
3877 persons may use the Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan  
3878 Authority, or facilities of an operator authorized to operate a toll facility pursuant to the Public-  
3879 Private Transportation Act of 1995 (§ ~~56-556~~ [33.2-XXX](#) et seq.) without the payment of toll  
3880 when necessary and incidental to the conduct of official business:

- 3881 1. The Commissioner of Highways;
- 3882 2. Members of the Commonwealth Transportation Board;
- 3883 3. Employees of the Department of Transportation;
- 3884 4. The Superintendent of the Department of State Police;
- 3885 5. Officers and employees of the Department of State Police;
- 3886 6. The Commissioner of the Department of Motor Vehicles;
- 3887 7. Employees of the Department of Motor Vehicles; and

3888 8. Sheriffs and deputy sheriffs.

3889 ~~E-G.~~ Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll  
3890 facilities in Virginia controlled by the Richmond Metropolitan Authority, pursuant to the  
3891 requirements of subdivisions D.1 through ~~4-of subsection B1.~~

3892 **Drafting note: Technical changes. In subsection B, "but not necessarily be limited**  
3893 **to" is removed based on § 1-218, which states: "'Includes' means includes, but not limited**  
3894 **to." In subdivision D 2, the U.S. Veterans Administration is updated to refer to the U.S.**  
3895 **Department of Veterans Affairs, which changed its name in 1989. References to the**  
3896 **Department of Transportation retain the full name throughout this section because of**  
3897 **references to other Departments.**

3898 ~~§ 33.1-252.1. Noise abatement measures.~~

3899 ~~No local matching funds shall be required in connection with the construction of any~~  
3900 ~~noise abatement measures in connection with a facility, connecting two cities with a combined~~  
3901 ~~population between 625,000 and 675,000 as determined by the most recent census, whose~~  
3902 ~~construction, operation, or maintenance is or is to be funded, in whole or in part, through tolls~~  
3903 ~~collected for use of that facility. All costs of construction and maintenance of any and all such~~  
3904 ~~noise abatement measures shall be paid from tolls collected for the use of the facility.~~

3905 **Drafting note: This section was intended to apply to the Virginia Beach Expressway**  
3906 **(linking Norfolk and Virginia Beach). That facility, however, has been toll free since 1996,**  
3907 **making this section obsolete.**

3908 ~~§ 33.1-252.2 33.2-357.~~ Disclosure of certain information relating to use of toll facilities;  
3909 injunctive relief; ~~attorneys'~~ attorney fees.

3910 A. Neither the Department nor any other operator of any toll bridge, toll road, or other  
3911 toll facility, nor any employee or contractor with the Department or other toll facility operator  
3912 shall disclose any information derived from an automated electronic toll collection system,  
3913 about the time, date, or frequency of use or nonuse of any such facility by any individually  
3914 identified motor vehicle except when ordered to do so by a court of competent jurisdiction. The

3915 provisions of this section shall not apply to information supplied (i) to any person who is a  
3916 participant in the electronic toll collection system, when such information is limited to vehicles  
3917 owned or leased by such person; (ii) to the issuer of any credit card or debit card or other third  
3918 party vendor when such information is necessary for collecting the toll and ensuring the  
3919 accuracy of such billing by the operator; (iii) for statistical or research purposes, when such  
3920 information contains no data attributable to individual vehicles or individual participants; or  
3921 (iv) to federal, state, and local ~~law enforcement~~ law enforcement, when such information is  
3922 required in the course of an investigation where time is of the essence in preserving and  
3923 protecting human life ~~and/or~~ or public safety.

3924 B. Any aggrieved person may institute a proceeding for injunction or mandamus against  
3925 any person, governmental agency, or other entity that has engaged, is engaged, or is about to  
3926 engage in any acts or practices in violation of the provisions of this section. The proceeding  
3927 shall be brought in the circuit court of any county or city wherein the person, governmental  
3928 agency, or other entity made defendant resides or has a place of business. In the case of any  
3929 successful proceeding by an aggrieved party, the person, governmental agency, or other entity  
3930 enjoined or made subject to a writ of mandamus by the court shall be liable for the costs of the  
3931 action together with reasonable ~~attorneys'~~ attorney fees as determined by the court.

3932 **Drafting note: Technical changes.**

3933 ~~CHAPTER 2.~~

3934 ~~LOCAL AUTHORITY OVER HIGHWAYS.~~

3935 ~~Article 10.~~

3936 ~~Miscellaneous Provisions~~ Local Authority over Highways.

3937 **Drafting note: Existing Chapter 2 of Title 33.1 is relocated and amended as**  
3938 **proposed Article 10 of Chapter 2 and combined with existing Article 1 of Chapter 4.**

3939 § ~~33.1-224~~ 33.2-358. Transfer of ~~streets~~ highways, etc., from secondary state highway  
3940 system to local authorities.

3941 Whenever any ~~incorporated~~ town has a population of more than 3,500 inhabitants, all the  
3942 ~~roads,~~ streets, highways, causeways, bridges, landings, and wharves in such town theretofore  
3943 incorporated within the secondary state highway system ~~of state highways~~ shall be eliminated  
3944 from such system and the control and jurisdiction over them shall be vested in the local  
3945 authorities. This section shall in no way affect the rights of such towns to receive the benefits  
3946 provided elsewhere in this title.

3947 **Drafting note: Technical changes.**

3948 § ~~33.1-225~~ 33.2-359. Levies.

3949 The ~~boards of supervisors or other~~ governing bodies of the several counties shall not  
3950 make any levy of county or district road taxes or contract any further indebtedness for the  
3951 construction, maintenance, or improvement of ~~roads~~ highways; ~~provided,~~ however, ~~that~~ the  
3952 ~~boards of supervisors or other~~ governing bodies of the several counties shall continue to make  
3953 county or district levies, as the case may be, upon all real and personal property subject to local  
3954 taxation, in such county or magisterial district, and not embraced within the corporate limits of  
3955 any ~~incorporated~~ town ~~which that~~ maintains its own streets and is exempt from county and  
3956 district road taxes unless the citizens of such towns voted on the question of issuing county or  
3957 district road bonds, sufficient only to provide for the payment of any bonded or other  
3958 indebtedness and for the interest contracted thereon that may be outstanding as an obligation of  
3959 any county or district contracted for road purposes or for the sinking fund for the retirement of  
3960 any bonded indebtedness established for county or district road purposes; ~~and provided, further,~~  
3961 ~~that the boards of supervisors or other governing bodies of counties adjacent to cities of the first~~  
3962 ~~class may, for the purpose of supplementing funds available for expenditure by the~~  
3963 ~~Commonwealth for the maintenance and improvement of roads in such counties when such~~  
3964 ~~supplementary funds are necessary on account of the existence of suburban conditions adjacent~~  
3965 ~~to such cities, levy county or district road taxes, as the case may be, the proceeds thereof to be~~  
3966 ~~expended at the option of the board of supervisors or other governing body either by or under~~  
3967 ~~the supervision of the Commissioner of Highways in the maintenance and improvement,~~

3968 ~~including construction and reconstruction, of roads in such suburban district; and provided,~~  
3969 ~~further, that any~~ Any expenditure heretofore made by the board of supervisors of Giles County  
3970 from the general funds of the county for the improvement of ~~roads which~~ highways that are not  
3971 in the secondary state highway system ~~of state highways~~ and ~~which that~~ are open to public use is  
3972 hereby validated.

3973 ~~All balances in the hands of the local authorities for county or district road purposes and~~  
3974 ~~any taxes levied for years prior to 1932 for county or district road purposes and not collected~~  
3975 ~~shall, when collected, and to the extent necessary, be disbursed in payment of obligations~~  
3976 ~~heretofore contracted for county or district road purposes and remaining unpaid and the balance,~~  
3977 ~~if any, for general county or district purposes.~~

3978 For the purpose of this section ~~the term,~~ "district" ~~shall mean~~ means a magisterial,  
3979 sanitary, or other special district created by the governing body of a county for the levy of road  
3980 taxes.

3981 **Drafting note: The penultimate paragraph of this section is stricken in the**  
3982 **expectation that any county road taxes collected prior to 1932 have been expended. The**  
3983 **term "city of the first class" is used eight times in the Code of Virginia but references are**  
3984 **out of date and therefore stricken. The entire section appears obsolete and is a possible**  
3985 **candidate for repeal. The reference to expenditures made by Giles County validates all**  
3986 **expenditures made "before now," allowing validation of many expenditures after the**  
3987 **intended date, which may have been 19\_\_.** Technical changes are made.

3988 ~~§ 33.1-225.1.~~

3989 **Drafting note: Repealed by Acts 2003, c. 303.**

3990 ~~§ 33.1-225.2~~ 33.2-360. Gifts received by counties for construction, maintenance, etc., of  
3991 secondary ~~roads~~ highways.

3992 Notwithstanding the provisions of ~~§ 33.1-225~~ 33.2-XXX or any other provisions of law  
3993 to the contrary, the governing body of any county may accept gifts of money, property, or  
3994 services to be utilized for the construction, maintenance and improvement of the secondary state

3995 highway system in such county, in conformity with specifications of and in cooperation with the  
3996 Department ~~of Transportation; and,~~ provided that such gift resources may be matched in value  
3997 by appropriations from the county's general funds. The allocation of such donated and  
3998 appropriated resources to the secondary highways shall be made by the governing body of the  
3999 county, after consultation with the Department ~~of Transportation,~~ to be used by the Department  
4000 in accordance with the wishes of the governing body of such county.

4001 **Drafting note: The repeal by reference is not preferred but is retained here.**

4002 **Technical changes are made.**

4003 § ~~33.1-225.3~~ 33.2-361. Funds for ~~roads~~ highways not in secondary system.

4004 Notwithstanding the provisions of § ~~33.1-225~~ 33.2-XXX or § ~~33.1-230~~ 33.2-XXX, the  
4005 governing body of any county under the urban county executive form of government may  
4006 expend funds on minor improvements and maintenance of ~~roads~~ highways not within the  
4007 secondary state highway system, provided such ~~roads~~ highways are open for public use. A ~~road~~  
4008 highway shall be determined to be open for public use by applying the same standards set forth  
4009 in § ~~33.1-184~~ 33.2-XXX or by final order of a court of competent jurisdiction on or before  
4010 January 1, 1978, except that in order to be eligible for funds under this section such ~~roads~~  
4011 highways need not be ~~thirty~~ 30 feet ~~in width~~ wide but shall not be less than ~~fifteen~~ 15 feet wide.  
4012 The maximum amount of mileage to be maintained under this section shall not exceed ~~thirty~~ 30  
4013 miles.

4014 **Drafting note: Technical changes.**

4015 § ~~33.1-226~~. ~~Local legislation; compensation of supervisors.~~

4016 ~~Chapter 112 of the Acts of 1923, approved March 29, 1923, codified as Michie Code~~  
4017 ~~1942, §§ 2014a-2014c, relating to the enactment of county road regulations and the~~  
4018 ~~compensation of members of boards of supervisors for work in connection with roads in~~  
4019 ~~counties having less than 15,000 population and adjoining one or more cities of the first class, is~~  
4020 ~~continued in effect.~~

4021           **Drafting note: This section has not been amended since the title was last revised in**  
4022 **1970. Its repeal as obsolete is recommended.**

4023           ~~§ 33.1-227. Reserved.~~

4024           **Drafting note: This section is removed because it is carried as reserved in the**  
4025 **existing title.**

4026           ~~§ 33.1-228. County road laws continued in effect for certain counties.~~

4027           ~~Sections 1970 to 1972, and 2109 to 2122, both inclusive, of the Code of 1919, as~~  
4028 ~~amended; § 1 of Chapter 367 of the Acts of 1918, approved March 16, 1918, codified as §~~  
4029 ~~2014e of Michie Code 1942; Chapter 370 of the Acts of 1920, approved March 20, 1920,~~  
4030 ~~codified as § 2014d of Michie Code 1942; Chapter 28 of the Acts of 1919, approved September~~  
4031 ~~5, 1919, codified as §§ 2124a to 2124m of Michie Code 1942, as amended by Chapter 513 of~~  
4032 ~~the Acts of 1922, approved March 28, 1922, by Chapter 519 of the Acts of 1922, approved~~  
4033 ~~March 29, 1922, and by Chapter 527 of the Acts of 1926, approved March 25, 1926; §§ 1, 11,~~  
4034 ~~12, 12 1/2, 13, 14, 17, 19, 29, 30 and 33 to 45 of Chapter 159 of the Acts of 1928, approved~~  
4035 ~~March 10, 1928, included in sections codified as §§ 2039(1) to 2039(46) of Michie Code 1942,~~  
4036 ~~as amended as to such §§ 12 and 12 1/2 by Chapter 51 of the Acts of 1932, approved February~~  
4037 ~~26, 1932, and as amended as to such § 43 by Chapter 368 of the Acts of 1932, approved March~~  
4038 ~~26, 1932, codified as § 2773(54) of Michie Code 1942; Chapter 215 of the Acts of 1928,~~  
4039 ~~approved March 15, 1928, and Chapter 257 of the Acts of 1946, approved March 25, 1946,~~  
4040 ~~codified as § 2039(38a) of Michie Suppl. 1946, relating to roads in counties that have~~  
4041 ~~withdrawn their roads from the secondary system of state highways and to the issue of bonds to~~  
4042 ~~pay for the same, are continued in effect in and for the counties of Arlington and Henrico for so~~  
4043 ~~long as such counties continue to maintain such roads without such secondary system of state~~  
4044 ~~highways. Should any of such counties bring itself back within such secondary system of state~~  
4045 ~~highways under the provisions of § 33.1-85, such section or acts shall thereupon cease to be in~~  
4046 ~~effect in and as to such county. And such §§ 2117, 2118 and 2119, of the Code of 1919, as~~  
4047 ~~heretofore amended, and §§ 7 and 8 of such Chapter 28 of the Acts of 1919, approved~~

4048 ~~September 5, 1919, as heretofore amended as aforesaid, are continued in effect with respect to~~  
4049 ~~any counties that still have outstanding bonds issued under §§ 2110 to 2122, inclusive, of the~~  
4050 ~~Code of 1919, as heretofore amended or under such Chapter 28 of the Acts of 1919, as amended~~  
4051 ~~as aforesaid, and are continued in effect also with respect to all such bonds so issued and still~~  
4052 ~~outstanding.~~

4053 **Drafting note: This section has not been amended since the title was last revised in**  
4054 **1970. Its repeal as obsolete is recommended.**

4055 § ~~33.1-228.1~~ 33.2-362. Agreements between localities for construction and operation of  
4056 toll facilities.

4057 The governing bodies of adjacent ~~counties, cities, and towns~~ localities may enter into  
4058 agreements providing for the construction and operation of highways, bridges, and ferries within  
4059 their boundaries and for the imposition and collection of tolls for the use of such facilities. Such  
4060 tolls may be in whatever amount, subject to whatever conditions, and expended for whatever  
4061 purposes provided for in such agreements. Such agreements shall provide for the design, land  
4062 acquisition, or construction of primary or secondary highway projects that have been included in  
4063 the six-year plan pursuant to § ~~33.1-70.01~~ 33.2-xx, or in the case of a primary highway, an  
4064 approved project included in the six-year improvement program of the ~~Commonwealth~~  
4065 Transportation Board. Such agreements shall specify relevant procedures and responsibilities  
4066 concerning the design, right-of-way acquisition, construction, and contract administration of  
4067 such projects. Any facility constructed pursuant to the authority granted in the section shall be  
4068 constructed in accordance with the applicable standards of the ~~Virginia~~ Department ~~of~~  
4069 Transportation for such facility. Prior to executing any agreement pursuant to this section, a  
4070 joint public hearing shall be held concerning the benefits of and need for as well as the location  
4071 and design of the facility.

4072 **Drafting note: This section was enacted in 2006 (Chapter 587 of the Acts of**  
4073 **Assembly of 2006) and does not appear to have been used by any localities. Technical**  
4074 **changes are made.**

4075 Article 2.

4076 Establishment, Alteration and Discontinuance of Highways.

4077 **Drafting note: This article designation is no longer needed because existing Article**  
4078 **2 of Chapter 2 is now part of this proposed Article 10 of Chapter 2.**

4079 § ~~33.1-229~~ 33.2-363. Continuance of powers of county authorities; alternative  
4080 procedure.

4081 The local ~~road~~ highway authorities shall continue to have the powers vested in them on  
4082 June 20, 1932, for the establishment of new roads in their respective counties, which shall, upon  
4083 such establishment, become parts of the secondary state highway system ~~of state highways~~  
4084 within such counties. They shall likewise have the power to alter or change the location of any  
4085 ~~road~~ highway now in the secondary state highway system ~~of state highways~~ within such  
4086 counties or which may hereafter become a part of the secondary state highway system ~~of state~~  
4087 ~~highways~~ within such counties. The Commissioner of Highways shall be made a party to any  
4088 proceeding before the local ~~road~~ highway authorities for the establishment of any such road or  
4089 for the alteration or change of the location of any such ~~road~~ highway. When any such board or  
4090 commission appointed by the ~~board of supervisors or other~~ governing body of a county to view  
4091 a proposed road or to alter or change the location of an existing ~~road~~ highway shall award  
4092 damages for the right-of-way for the same, in either case to be paid in money, it may be paid by  
4093 the ~~board of supervisors or other~~ governing body of the county out of the general county levy  
4094 funds. No expenditure by the Commonwealth shall be required upon any new ~~road~~ highway so  
4095 established or any old road the location of which is altered or changed by the local ~~road~~ highway  
4096 authorities, except as may be approved by the Commissioner. If the property sought to be taken  
4097 is for the easement or right-of-way, the plat shall reasonably indicate thereon any appurtenant  
4098 right-of-way or easement for ingress and egress to and from the principal easement or right-of-  
4099 way being taken.

4100 As an alternative to the method of establishing or relocating a ~~road~~ highway provided in  
4101 the preceding paragraph, the Commissioner, by and with the approval of the ~~Commonwealth~~

4102 ~~Transportation~~ Board and the ~~board of supervisors or other~~ governing body of a county shall  
4103 have power and authority to make such changes in routes in, and additions to, the secondary  
4104 state highway system ~~of state highways~~ from time to time as the public safety or convenience  
4105 may require.

4106 The service of any process or notice in any such proceedings upon the district engineer  
4107 of the Department ~~of Transportation~~ having the supervision of maintenance and construction of  
4108 highways in any such county shall be termed sufficient service on the Commissioner.

4109 **Drafting note: Technical changes.**

4110 § ~~33.1-230~~ 33.2-364. How ~~roads~~ highways and bridges in counties established or altered;  
4111 examination and report; width and grade of ~~roads~~ highways; employing engineer.

4112 Whenever the ~~board of supervisors or other~~ governing body of any county ~~shall be is~~ of  
4113 opinion that it is necessary to establish or alter the location of a public ~~road~~ highway or bridge,  
4114 or any other person applies to the ~~board or other local~~ governing body therefor, it may appoint  
4115 five viewers, who shall be resident freeholders of the county, any three of whom may act, to  
4116 examine such ~~roads~~ highways or routes and report upon the expediency of establishing or  
4117 altering the location of such public ~~road~~ highway or bridge or, in lieu of such viewers, it may  
4118 direct the county road engineer or county road manager, if any, to examine such road or route  
4119 and make such report and such board may establish or alter such ~~road~~ highway or bridge upon  
4120 such location and of such width and grade as it may prescribe; provided, that the right-of-way  
4121 for any public ~~road~~ highway shall not be less than ~~thirty~~ 30 feet wide, except that in any case in  
4122 which the cost of constructing and maintaining any such road is to be borne by any individual or  
4123 individuals the right-of-way for such road may be less than ~~thirty~~ 30, not less than ~~fifteen~~ 15,  
4124 feet in width. If no one of the viewers be an engineer, appointed for the purpose of making  
4125 survey and map, the ~~board of supervisors or other local~~ governing body may employ one, if  
4126 necessary, to assist the viewers.

4127 **Drafting note: Technical changes.**

4128 § ~~33.1-231~~ 33.2-365. Duty of viewers, etc.; report.

4129 The viewers, or the county ~~road~~ highway engineer or county ~~road~~ highway manager, as  
4130 the case may be, shall, as early as practicable after receiving the order of the ~~board or other local~~  
4131 governing body to that effect, proceed to make the view, and may examine other routes and  
4132 locations than that proposed and if of the opinion that there is a necessity to establish or alter the  
4133 location of the public ~~road~~ highway or bridge shall locate the same, return a map or diagram  
4134 thereof with their report, and make a report to the ~~board or other local~~ governing body, stating:

4135 (1) 1. Their reasons for preferring the location made;

4136 (2) 2. The probable cost of establishing or altering the location of such road highway or  
4137 bridge;

4138 (3) 3. The convenience and inconvenience that will result as well to individuals as to the  
4139 public;

4140 (4) 4. Whether the road highway or bridge will be one of such mere private convenience  
4141 as to make it proper that it should be opened, established, or altered and kept in order by the  
4142 person or persons for whose convenience it is desired;

4143 (5) 5. Whether any yard, garden, or orchard will have to be taken;

4144 (6) 6. The names of the landowners on such route;

4145 (7) 7. Which of such landowners require compensation;

4146 (8) 8. What will be a just compensation to the landowners requiring compensation for  
4147 the land so taken and for the damages to the residue of the tract, if any, beyond the peculiar  
4148 benefits to be derived in respect to such residue, from the road highway or bridge to be  
4149 established; and

4150 (9) 9. All other facts and circumstances in their opinion useful in enabling the ~~board of~~  
4151 ~~supervisors or other local~~ governing body to determine the expediency of establishing or  
4152 altering the road highway or bridge.

4153 They shall file such report with the clerk of the ~~board or other local~~ governing body.

4154 **Drafting note: Technical changes.**

4155 § ~~33.1-232~~ 33.2 366. Consent of landowners.

4156 In the event that some of the landowners do not require compensation and will execute  
4157 their written consent giving the right-of-way in question, the viewers, or the county ~~road~~  
4158 highway engineer or county ~~road~~ highway manager, as the case may be, shall obtain such  
4159 consent and return it with their report, and such written consent shall operate and have the force  
4160 and effect of a deed from the landowners of the county for the right-of-way so long as it is used  
4161 by the public, in case the ~~road~~ highway is established, and it shall be recorded in the deed books  
4162 of the county.

4163 Should any of the landowners require compensation and not unite in such deed, the  
4164 subsequent proceedings as to them shall be as herein prescribed.

4165 **Drafting note: Technical changes.**

4166 § ~~33.1-233~~ 33.2-367. Proceedings on report; notice to owners.

4167 At the next meeting of the ~~board of supervisors or other local~~ governing body after  
4168 receipt of such report, as provided in 33.1-232 (33.2-xxx), unless the opinion of the ~~board or~~  
4169 ~~other local~~ governing body be against establishing or altering the ~~road~~ highway or bridge, they  
4170 shall require their clerk to give written notice to the owner of the land on which it is proposed to  
4171 establish or alter such ~~road~~ highway or bridge at least five days before the hearing to be held  
4172 under § ~~33.1-235~~ 33.2-XXX of this Code informing the owner of the time and place of the  
4173 hearing at which he may appear and present his views. Notice sent by registered or certified  
4174 mail to the last known address of such owner as shown on the current real estate tax assessment  
4175 books shall be deemed adequate compliance with this requirement. If the hearing is continued,  
4176 notice shall be ~~remailed~~ mailed again. If the current real estate tax assessment books do not  
4177 contain the name of the owner of the affected land, notice of the hearing shall be published once  
4178 each week for four successive weeks in a newspaper having general circulation in the county.

4179 **Drafting note: Technical changes.**

4180 § ~~33.1-234~~ 33.2-368. Guardian ad litem for persons under disability.

4181 If any such owner or proprietor be a person under a disability as defined in § 8.01-2, the  
4182 circuit court of the county, or the judge thereof in vacation, shall, at the time the clerk shall issue

4183 such process, or as soon thereafter as practicable, upon the court's or judge's own motion, or  
4184 upon the suggestion of any party in interest, appoint for such person a guardian ad litem, who  
4185 shall faithfully represent the interest of the person under a disability and whose fees shall be  
4186 fixed by the court or judge making the appointment.

4187 **Drafting note: Technical change.**

4188 § ~~33.1-235~~ 33.2-369. Defense allowed; what board may do.

4189 Upon the return of the process duly executed, defense may be made to the proceedings  
4190 by any party and the ~~board of supervisors or other~~ local governing body may hear testimony  
4191 touching the expediency or propriety of establishing or altering the ~~road~~ highway or bridge.  
4192 Upon such hearing, unless the ~~board of supervisors or other~~ local governing body be of the  
4193 opinion that the ~~road~~ highway or bridge ought not to be established or altered, in which case it  
4194 shall so order, it shall proceed to fix upon a just compensation to the proprietors and tenants for  
4195 the land proposed to be taken and the damage accruing therefrom.

4196 **Drafting note: Technical change.**

4197 § ~~33.1-236~~ 33.2-370. Appointment of commissioners to assess damages.

4198 If any tenant or proprietor desire, or if the ~~board of supervisors or other~~ local governing  
4199 body see cause for doing it, it shall appoint five disinterested resident freeholders of the county  
4200 as commissioners, any three of whom may act, for the purpose of ascertaining a just  
4201 compensation for the land to be taken for such ~~road~~ highway or bridge and damages, if any, to  
4202 the residue, beyond the benefits to be derived by such residue, from such ~~road~~ highway or  
4203 bridge.

4204 **Drafting note: Technical changes.**

4205 § ~~33.1-237~~ 33.2-371. Enhancement in value of residue.

4206 The enhancement, if any, in value of the residue by reason of the establishment or  
4207 alteration of such ~~road~~ highway or bridge shall be offset against the damage to the residue, but  
4208 there shall be no recovery over against such landowner for any excess nor shall enhancement be  
4209 offset against the value of land taken.

4210 **Drafting note: Technical changes.**

4211 § ~~33.1-238~~ 33.2-372. Action of commissioners; report.

4212 The commissioners shall meet on the lands of such proprietors and tenants as may be  
4213 named in the order of the ~~board of supervisors or other local~~ governing body at a ~~certain~~  
4214 specified place and day ~~therein also specified~~, of which notice ~~shall be~~ is given by the sheriff to  
4215 such proprietors and tenants or their agents; ~~except only that it~~ Notice need not be given to ~~one~~  
4216 any person present at the time ~~of making~~ the order is made. Any one or more of the  
4217 commissioners attending on the land ~~as aforesaid~~ may adjourn, from time to time, ~~till the~~ until  
4218 their business ~~shall be~~ is finished. The commissioners, in the discharge of their duties, shall  
4219 comply in all respects with the provisions of Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 so far  
4220 as applicable. They shall ~~forthwith~~ promptly make ~~return of~~ their report as required by § 25.1-  
4221 232 to the ~~board of supervisors or other local~~ governing body and, unless good cause ~~be is~~  
4222 shown against the report, it shall be confirmed. If, however, good cause ~~be is~~ shown against the  
4223 report or the commissioners report their disagreement, or fail to report within a reasonable time,  
4224 the ~~board of supervisors or other local~~ governing body, ~~as often as it seems proper~~, may appoint  
4225 other commissioners ~~for the purpose of ascertaining to ascertain~~ the compensation and damages  
4226 ~~as aforesaid~~. When any report is confirmed, the ~~board of supervisors or other local~~ governing  
4227 body shall establish or alter the ~~road~~ highway or bridge with or without gates, as ~~to~~ it may seem  
4228 proper, and provide for the payment of the compensation and damages allowed.

4229 **Drafting note: Technical changes and modernization of language.**

4230 § ~~33.1-239~~ 33.2-373. Appeal to circuit court.

4231 If ~~such an~~ applicant, proprietor, or tenant is ~~dissatisfied~~ not satisfied with the decision of  
4232 the ~~board of supervisors or other local~~ governing body in respect to the amount of compensation  
4233 or damages allowed, he may ~~of right~~ appeal, but only on the question of compensation and  
4234 damages, to the circuit court of the county, provided such appeal is filed within ~~sixty~~ 60 days.  
4235 The court shall hear the matter de novo as to the amount of compensation and damages with the  
4236 further right of appeal as provided by general law. Upon the hearing of the appeal, the court

4237 shall ascertain the amount of compensation and damages, if any, to which such proprietor is  
4238 entitled, and shall certify the same to the ~~board of supervisors or other~~ local governing body,  
4239 who shall proceed to carry out the judgment of the court; provided, however that the ~~board of~~  
4240 ~~supervisors or other~~ local governing body shall be summoned to appear at the hearing of the  
4241 appeal.

4242 **Drafting note: Technical changes.**

4243 § ~~33.1-240~~ 33.2-374. Who shall pay costs, compensation, and damages.

4244 When the ~~road~~ highway or bridge is established or altered the county shall be chargeable  
4245 with the compensation and damages to the proprietor or tenant and all costs incurred in the  
4246 proceedings; ~~provided, however,~~ that ~~when the record shows that~~ the sum allowed by the circuit  
4247 court on appeal, as shown by the record, as compensation and damages to any proprietor or  
4248 tenant, is not more than the amount allowed ~~him~~ by the ~~board of supervisors or other~~ local  
4249 governing body from whose decision the appeal was taken, such proprietor or tenant shall be  
4250 adjudged to pay the costs occasioned by such appeal. When the ~~board of supervisors or other~~  
4251 local governing body decides against the application to establish or alter a ~~road~~ highway or  
4252 bridge, the applicant shall pay the costs incurred in the case, except the compensation of the  
4253 viewers.

4254 But when it shall appear to the ~~board of supervisors or other~~ local governing body that  
4255 the opening and establishing or altering of such ~~road~~ highway will be for mere private  
4256 convenience, then the ~~board of supervisors or other~~ local governing body may order the same  
4257 upon condition that such applicant pay, in whole or in part, the compensation and damages to  
4258 the proprietor or tenant and the costs of the proceedings and keep the ~~road~~ highway in order. In  
4259 any such case the ~~road~~ highway shall not be opened and established or altered until such  
4260 compensation and damages and costs shall have been first paid or the written consent of the  
4261 proprietor or tenant given.

4262 **Drafting note: Technical changes.**

4263           § ~~33.1-241~~ 33.2-375. ~~Roads~~ Highways not to be established through cemetery or  
4264 seminary of learning institution of higher education without owners' consent.

4265           No ~~road~~ highway shall be established upon or through the lands of any cemetery or  
4266 through the lands of any seminary of learning institution of higher education without the consent  
4267 of the owners thereof.

4268           **Drafting note: Should "seminary of learning" be replaced with some more-**  
4269 **inclusive term, such as "institution of higher education"? Or maybe "institution of**  
4270 **religious instruction"? "Seminary of learning" appears only four times in the Code of**  
4271 **Virginia, two of which are in this section. The others are in § 23-5 (payment of interest on**  
4272 **bonds of State held by colleges, etc.) and § 55-26.1 (validity of charitable gifts). The term is**  
4273 **not defined in any of these locations. Note, too, this section deals with LOCAL**  
4274 **establishment of roads, not VDOT highway construction. (See Chapter 5, Article 2.)**

4275           § ~~33.1-242~~ 33.2-376. Pay to viewers, commissioners, and engineers.

4276           A statement in writing showing the number of days each viewer or commissioner and  
4277 engineer, appointed or employed under the provisions of ~~this article §§ 33.2-XXX through 33.2-~~  
4278 XXX, was employed shall be sworn to and presented to the governing body, and the governing  
4279 body may allow a reasonable compensation not exceeding \$50 per day to each viewer or  
4280 commissioner and not exceeding \$7.50 per day and necessary traveling expenses for the  
4281 engineer; provided that in any county adjoining a county having a population in excess of 1,000  
4282 per square mile and in the County of Henrico, the governing body may pay the viewers,  
4283 commissioners, and engineers in addition to expenses not exceeding \$25 a day for each day they  
4284 were respectively employed hereunder.

4285           **Drafting note: The rates of compensation provided for in this section have not been**  
4286 **changed since 1978 (Chapter 305, Acts of Assembly of 1978) when the per day pay to**  
4287 **viewers and commissioners was raised to the present \$50 from \$10. Reference to "this**  
4288 **article" is replaced with specific section numbers, since what had been a single article is**  
4289 **now part of a larger article. Technical changes are made.**

4290 § ~~33.1-243~~ 33.2-377. Abandonment of certain ~~roads~~ highways and railway crossings.

4291 The governing body of any county ~~which that~~ has chosen or hereafter chooses not to be  
4292 included in the provisions of ~~Article 6 (§ 33.1-67 et seq.) of Chapter 1 of this title XXX,~~  
4293 whenever it deems that any part of a ~~road~~ highway subject to its jurisdiction is no longer  
4294 required or an existing crossing by any such ~~road~~ highway of the lines of a railway company, or  
4295 any existing crossing by the lines of a railway company of such ~~road~~ highway, is no longer  
4296 necessary as a part of such ~~road~~ highway system, may abandon the section of ~~road~~ highway, or  
4297 the crossing.

4298 The procedure for any such abandonment shall be governed by the provisions applicable  
4299 to the ~~Commonwealth Transportation~~ Board as provided in §§ ~~33.1-144 to 33.1-167~~ 33.2-???  
4300 through 33.2-??? and all provisions applicable to the Board shall apply, mutatis mutandis, to the  
4301 governing body of the county.

4302 **Drafting note: Technical changes.**

4303 § ~~33.1-244~~ 33.2-378. Supervisors may issue process.

4304 The ~~board of supervisors or other~~ governing body of a county shall have power to cause  
4305 process to issue and compel the attendance of witnesses and other parties.

4306 **Drafting note: Technical change.**

4307 § ~~33.1-245~~ 33.2-379. Compensation of clerk of board.

4308 Except in the County of Henrico, the clerk of the ~~board of supervisors or other~~ local  
4309 governing body of a county shall receive for the duties to be performed by him under the  
4310 provisions of this ~~chapter~~ article, compensation to be fixed and allowed to him by the ~~board or~~  
4311 other local governing body, not less, however, than \$100 and not to exceed \$300 per annum.

4312 **Drafting note: The amounts of compensation provided for in this section have not**  
4313 **been changed since the Title Revision of 1970. Technical changes are made.**

4314 § ~~33.1-246~~ 33.2-380. Discontinuance of gates on public ~~roads~~ highways.

4315 Whenever a public ~~road~~ highway is, or has been, established with gates, any person may  
4316 apply to the ~~board or other~~ governing body of the county to have such gate or gates

4317 discontinued, on which application proceedings shall be had in accordance with the applicable  
4318 provisions of §§ ~~33.1-230 to 33.1-240~~ 33.2-XXX through 33.2-XXX. If the ~~board or other local~~  
4319 governing body decides that the gate or gates shall be removed, it shall direct the sheriff of the  
4320 county to remove the same and the sheriff shall do so at such time as the ~~board or other local~~  
4321 governing body may direct.

4322 When damages are allowed to any person or persons on account of the removal of such  
4323 gate or gates, such damages and the costs incident to the proceeding shall be paid out of the  
4324 county levy general fund. Any such person shall have an appeal of right to the circuit court of  
4325 the county, at any time within ~~ten~~ 10 days from the date of the order making such allowance, but  
4326 only from the amount of damages allowed.

4327 **Drafting note: A reference to "road" is changed to "highway" in keeping with**  
4328 **changes made throughout this title. Other changes are technical and for the modernization**  
4329 **of language.**

4330 § 33.1-246.1.

4331 **Drafting note: Repealed by Acts 1982, c. 343.**

4332 Article 1.

4333 Assumption of District Road Indebtedness by Counties Generally.

4334 **Drafting note: This article designation is no longer needed because existing Article**  
4335 **1 of Chapter 4 is relocated here and combined with existing Chapter 2 (Local Authority**  
4336 **over Highways) as proposed Article 10 of Chapter 2.**

4337 ~~§ 33.1-321 33.2-381. County authorized to assume~~ Assumption of district highway  
4338 indebtedness by counties, generally.

4339 A. Any county may assume the payment of and pay any outstanding indebtedness of any  
4340 magisterial district or districts thereof, incurred for the purpose of constructing public ~~roads~~  
4341 which highways that were subsequently taken over by the Commonwealth, provided the  
4342 assumption thereof be approved by a majority of the qualified voters of the county voting on the  
4343 question at an election to be held as hereinafter provided.

4344 ~~§ 33.1-322. Resolution for election; notice thereof.~~

4345 B. The governing body of the county may, by a resolution entered of record in its minute  
4346 book, require the judges of election to open a poll at the next regular election and take the sense  
4347 of the qualified voters of the county upon the question whether or not the county shall assume  
4348 the ~~road highway~~ indebtedness of . . . . . district, or . . . . . districts. The  
4349 local governing body shall cause notice of such election to be given by the posting of written  
4350 notice thereof at the front door of the county courthouse at least ~~thirty~~ 30 days prior to the date  
4351 the same is to be held and by publication thereof once a week for two successive weeks in some  
4352 newspaper published in the county, and if none such, then in some newspaper having general  
4353 circulation therein, which notice shall set forth the date of such election and the question to be  
4354 voted on.

4355 ~~§ 33.1-323. Conduct of election; certification and recording of returns.~~

4356 C. The ballots for use in voting upon the question so submitted shall be prepared,  
4357 printed, distributed, voted, and counted and the returns made and canvassed in accordance with  
4358 the provisions of § 24.2-684. The results shall be certified by the commissioners of election to  
4359 the county clerk, who shall certify the same to the governing body of the county, and such  
4360 returns shall be entered of record in the minute book of the local governing body.

4361 ~~§ 33.1-324. Favorable vote renders indebtedness county obligation.~~

4362 D. If a majority of the voters voting on the question vote in favor of the assumption by  
4363 the county of the ~~road highway~~ indebtedness of any district or districts of the county, such  
4364 indebtedness shall become and be an obligation or obligations of the county and as binding  
4365 thereon as if the same had been originally contracted by the county. In such event the governing  
4366 body of the county is authorized to levy and collect taxes throughout the county for the payment  
4367 of the district indebtedness so assumed, both as to principal and interest.

4368 ~~§ 33.1-325. District road obligations not affected by adverse vote.~~

4369 E. Nothing ~~herein~~ contained in this section shall ~~in any way~~ affect the validity of such  
4370 district ~~road highway~~ obligations in the event of the result of such election being against the

4371 assumption thereof by the county, but they shall continue to be as valid and binding in all  
4372 respects, as they were in their inception.

4373 **Drafting note: Five short sections dealing with the same subject are merged. The**  
4374 **five existing sections appear obsolete and are a candidate for repeal.**

4375 ~~Article 2.~~

4376 ~~Assumption by County With Executive Form of Government.~~

4377 **Drafting note: Repeal of this article is recommended because it only applies to**  
4378 **taking over of debts incurred prior to June 14, 1945.**

4379 ~~§ 33.1-326. Authorization of assumption.~~

4380 ~~Any county operating under the executive form of government may assume indebtedness~~  
4381 ~~of one or more of its magisterial districts incurred prior to June 14, 1945, for the construction of~~  
4382 ~~roads, provided the voters in the county vote in favor of the assumption of such indebtedness.~~

4383 ~~§ 33.1-327. Election to determine assumption.~~

4384 ~~The circuit court of the county, or the judge thereof in vacation, upon the petition of a~~  
4385 ~~majority of the board of county supervisors of such county, shall make an order requiring the~~  
4386 ~~judges of election at the next regular election, or at any other time not less than thirty days from~~  
4387 ~~the date of such order, which shall be designated therein, to open a poll and take the sense of the~~  
4388 ~~qualified voters of the county upon the question of whether the county shall assume the~~  
4389 ~~road indebtedness of . . . . . district, or . . . . . districts.~~

4390 ~~§ 33.1-328. Conduct of election.~~

4391 ~~The regular election officers of the county at the time designated in the order authorizing~~  
4392 ~~the vote shall open the polls at the various voting places in the county and the ballots for such~~  
4393 ~~election shall be prepared, distributed and voted, the election conducted and the result thereof~~  
4394 ~~ascertained and certified in the manner provided by law in other elections, except that there shall~~  
4395 ~~be printed upon the ballots the question, "Shall the county assume the road indebtedness of . . . .~~  
4396 ~~. . . . . district or districts?" (as the case may be), and the following:~~

4397  
4398

4399  For

4400  
4401  Against  
4402

4403           ~~§ 33.1 329. Effect of favorable vote.~~

4404           ~~If a majority of the voters at the election vote in favor of the assumption of indebtedness~~  
4405 ~~of districts, or a district, of the county, such indebtedness shall become an obligation of the~~  
4406 ~~county as binding thereon as if contracted by the county in its inception and may be enforced~~  
4407 ~~against it like any debt of the county as provided by law and the obligation shall be validated~~  
4408 ~~and shall not be questioned thereafter by the county.~~

4409           ~~§ 33.1 330. Payment; refunding issue.~~

4410           ~~If a majority of the voters at the election vote in favor of the assumption of such~~  
4411 ~~indebtedness, the board of county supervisors may appropriate any part or all of the surplus in~~  
4412 ~~the general funds of the county, not otherwise appropriated, toward payment of the indebtedness~~  
4413 ~~assumed; and the board may likewise issue new bonds of the county at the same or a lower rate~~  
4414 ~~of interest for such amount as may then be necessary to retire outstanding bonds of the districts,~~  
4415 ~~and thereafter the board of county supervisors shall provide for the imposition and collection~~  
4416 ~~annually of a tax in addition to all other taxes on property subject to local taxation and not~~  
4417 ~~exempt from the levy of taxes formerly levied for the payment of bonds refunded, sufficient in~~  
4418 ~~amount to pay the interest on such bonds and the principal thereof, as the same respectively~~  
4419 ~~become due, notwithstanding any tax rate limitations which would otherwise be applicable to~~  
4420 ~~the levy of such taxes. Such tax shall be levied and collected by the same officers, at the same~~  
4421 ~~time and in the same manner as general taxes of the county.~~

4422           ~~The sale of such bonds, deposit of proceeds, security for deposits, provisions for sinking~~  
4423 ~~funds and expenses of authorization and issuance shall be in accordance with the provisions of~~  
4424 ~~general law except that the taxes for the payment of such bonds, principal and interest, shall be~~  
4425 ~~uniformly levied throughout the county. The proceeds of the sale of such refunding bonds shall~~  
4426 ~~be invested in obligations of the United States of America maturing or redeemable at the option~~

4427 ~~of the holder, not later than the date of maturity or the optional redemption date of the bonds to~~  
4428 ~~be refunded.~~

4429 ~~§ 33.1-331. Validity of existing bonds not affected.~~

4430 ~~Nothing contained in this article shall affect the validity of existing bonds of any district~~  
4431 ~~in a county now operating under the executive form of government.~~

4432 ~~Article 3.~~

4433 ~~Redemption of District Road Bonds.~~

4434 **Drafting note: Repeal of this obsolete article is recommended.**

4435 ~~§ 33.1-332. Election to determine redemption.~~

4436 ~~Whenever the holders of the majority amount of any issue of bonds made by any road~~  
4437 ~~district in the Commonwealth, together with twenty-five freeholders of the district, shall petition~~  
4438 ~~the circuit court of the county in which such district is located for an election to ascertain~~  
4439 ~~whether the people of such district desire that such bonds shall be redeemed before maturity at~~  
4440 ~~their face value with accrued interest, if any, and whether they will authorize the board of~~  
4441 ~~supervisors or other governing body of such county to provide a special levy to provide a fund~~  
4442 ~~to be used for that purpose along with other funds accumulated to the credit of such district for~~  
4443 ~~road purposes, the court shall order an election to be held in the same manner as elections are~~  
4444 ~~held when ordered upon the question of the issuance of county or district bonds and there shall~~  
4445 ~~be printed on the ballot used at such election the words "for redemption of bonds" and "against~~  
4446 ~~redemption of bonds" and voters at such election shall express their preference by erasing the~~  
4447 ~~words which do not express such preference.~~

4448 ~~§ 33.1-333. Redemption of such bonds.~~

4449 ~~If the majority of the voters of the district, voting at such election, shall vote in favor of~~  
4450 ~~the redemption of the bonds prior to their maturity, the court shall direct its clerk to notify all the~~  
4451 ~~holders of the bonds, as far as they may be ascertained, whose names are not already among~~  
4452 ~~those who petition for the election, to communicate in writing to the clerk, within thirty days,~~  
4453 ~~whether or not they wish the bonds which they hold to be redeemed prior to their maturity. The~~

4454 ~~clerk shall communicate to the chairman of the board of supervisors or other governing body of~~  
4455 ~~the county the names, number and amount of bonds, the holders of which have consented to~~  
4456 ~~have them redeemed prior to their maturity; and the board of supervisors or other governing~~  
4457 ~~body in making up its next levy shall provide for sufficient taxes upon the property of the~~  
4458 ~~residents of the district to redeem the bonds within three years. As the accumulations from the~~  
4459 ~~several levies shall accrue the treasurer of the county shall redeem the bonds, in the order of~~  
4460 ~~their presentation, and cancel and retire the same.~~

4461 ~~§ 33.1-334. Subsequent election.~~

4462 ~~No second or subsequent election shall be held upon the question of redeeming any one~~  
4463 ~~issue of bonds at intervals shorter than five years.~~

4464 ~~§ 33.1-335. Application of balance to payment of bonds.~~

4465 ~~Should there be a balance in the hands of any board of supervisors or other governing~~  
4466 ~~body of any county a district of which has issued such bonds, which has not been used for the~~  
4467 ~~building of roads in the district, the board of supervisors or other governing body may, should~~  
4468 ~~they deem it advisable, apply such balance to the payment of such bonds as hereinbefore~~  
4469 ~~provided for, with the consent of the holders of such bonds.~~

4470 ~~Chapter 6 Article 11.~~

4471 ~~Offenses Concerning Highways and Travelers Thereon.~~

4472 **Drafting note: Existing Chapter 6 of Title 33.1 is relocated as proposed Article 11,**  
4473 **Offenses Concerning Highways, in Chapter 2.**

4474 ~~§ 33.1-344 33.2-XXX. "Road" construed Definition.~~

4475 ~~In this chapter, the word "road" shall be construed to mean any As used in this article,~~  
4476 ~~"highway" means a state or county road highway.~~

4477 **Drafting note: Road has been used interchangeably with highway in the sections in**  
4478 **existing Chapter 6, so references to "road" have been changed to "highway" in keeping**  
4479 **with changes made throughout the proposed title.**

4480 § ~~33.1-345~~ 33.2-110. Cutting or injuring trees ~~near highways;~~ injuring bridges; injuring  
4481 markers, ~~etc.~~; obstructing ~~roads, etc~~ highways; penalty.

4482 Any person ~~shall be~~ is guilty of a Class 1 misdemeanor who ~~shall~~:

4483 ~~(1) Cut~~ 1. Cuts or ~~injure~~ injures a tree within ~~fifty~~ 50 feet of a ~~road~~ highway so as to  
4484 render it liable to fall and ~~leave~~ leaves it standing;

4485 ~~(2) 2.~~ Knowingly and willfully, without lawful authority, ~~break~~ breaks down, ~~destroy~~  
4486 destroys, or ~~injure~~ injures any bridge or log placed across a stream for the accommodation of  
4487 pedestrians;

4488 ~~(3) Obstruct~~ 3. Obstructs any ~~road~~ highway or any ditch made for the purpose of  
4489 draining ~~any such road~~ the highway;

4490 ~~(4), (5) [Repealed.]~~

4491 ~~(6) 4.~~ Willfully or maliciously ~~displace~~ displaces, ~~remove~~ removes, ~~destroy~~ destroys, or  
4492 injure injures any highway sign or historical marker or any inscription thereon that is lawfully  
4493 within a highway; or

4494 ~~(7) Put~~ 5. Puts or ~~cast~~ casts into any public ~~road~~ highway any glass, bottles, glassware,  
4495 crockery, porcelain or pieces thereof, caltrops or any pieces of iron or hard or sharp metal, or  
4496 any nails, tacks, or sharp-pointed instruments of any kind, likely in their nature to cut or  
4497 puncture any tire of any vehicle or injure any animal traveling thereon. This subdivision shall  
4498 not apply to the use of any tire deflation device by a law-enforcement officer while in the  
4499 discharge of his official duties, provided the device was approved for use by the Division of  
4500 Purchase and Supply.

4501 ~~(8) [Repealed.]~~

4502 **Drafting note: "Caltrops," a device with four metal points so arranged that when**  
4503 **any three are on the ground the fourth projects upward as a hazard to the hooves of**  
4504 **horses or to pneumatic tires, is added to the list of metal that may not be put onto a**  
4505 **highway. Technical changes are made.**

4506 § ~~33.1-346~~ 33.2-119. Dumping trash, ~~companion animals, etc. on highway, right-of-way~~  
4507 ~~or private property~~; penalty.

4508 A. It shall be unlawful for any person to dump or otherwise dispose of trash, garbage,  
4509 refuse, litter, a companion animal, as defined in § 3.2-6500, for the purpose of disposal, or other  
4510 unsightly matter, on public property, including a public highway, right-of-way, property  
4511 adjacent to such highway or right-of-way, or on private property without the written consent of  
4512 the owner ~~thereof~~ or his agent.

4513 B. When any person is arrested for a violation of this section, and the matter alleged to  
4514 have been illegally dumped or disposed of has been ejected from a motor vehicle or transported  
4515 to the disposal site in a motor vehicle, the arresting officer may comply with the provisions of §  
4516 46.2-936 in making ~~such an~~ arrest.

4517 When a violation of the provisions of this section has been observed by any person, and  
4518 the matter illegally dumped or disposed of has been ejected or removed from a motor vehicle,  
4519 the owner or operator of ~~such the~~ motor vehicle shall be presumed to be the person ejecting or  
4520 disposing of ~~such the~~ matter. However, such presumption shall be rebuttable by competent  
4521 evidence.

4522 C. Any person convicted of a violation of this section ~~shall be is~~ guilty of a misdemeanor  
4523 punishable by confinement in jail for not more than 12 months and a fine of not less than \$250  
4524 or more than \$2,500, either or both. In lieu of the imposition of confinement in jail, the court  
4525 may order the defendant to perform community service in litter abatement activities.

4526 D. Upon conviction of any person for a violation of this section, the court may suspend  
4527 the imposition of any sentence on condition that the defendant volunteer his services for such  
4528 period of time as the court may designate to remove litter from the highway. Any such sums  
4529 collected shall be paid into the court and forwarded to the State Treasurer for the construction  
4530 and maintenance of state highways.

4531 ~~D. E.~~ The governing bodies of ~~counties, cities and towns are hereby authorized to~~  
4532 localities may adopt ordinances not in conflict with the provisions of this section; and may  
4533 repeal; or amend ~~or modify~~ such ordinances.

4534 ~~E. F.~~ The provisions of this section shall not apply to the lawful disposal of such matter  
4535 in landfills.

4536 **Drafting note: Existing § 33.1-346.1 is moved into subsection D for cohesive**  
4537 **purposes and other technical changes are made. A cross-reference to the definition of**  
4538 **"companion animal" is added in subsection A and "localities" replaces "counties, cities**  
4539 **and towns" in proposed subsection E in accordance with the definition in § 1-221.**

4540 ~~§ 33.1-346.1. Penalties for violation of § 33.1-346.~~

4541 ~~Upon conviction of any person for a violation of § 33.1-346, the court may suspend the~~  
4542 ~~imposition of any sentence on condition that the defendant volunteer his services for such period~~  
4543 ~~of time as the court may designate to remove litter from the highway. Any such sums collected~~  
4544 ~~shall be paid into the court and forwarded to the State Treasurer for the construction and~~  
4545 ~~maintenance of state highways.~~

4546 **Drafting note: Repeal. This section is moved into subsection D of the previous**  
4547 **section.**

4548 ~~§ 33.1-347~~ 33.2-XXX. Dump creating fire hazard to public bridge; penalty.

4549 It shall be unlawful for any person to establish or maintain a public or private dump  
4550 containing ~~inflammable~~ flammable articles within ~~500'~~ 500 feet of any public bridge constructed  
4551 wholly or partly of wood so as to create a fire hazard to such bridge. Any person violating this  
4552 section ~~shall be is~~ guilty of a Class 1 misdemeanor ~~and punished as provided by law~~. Each day  
4553 of operation in violation ~~hereof of this section~~ shall constitute a separate offense. An offense  
4554 hereunder in violation of this section may be enjoined in the manner provided by law for the  
4555 abatement of public nuisances.

4556 **Drafting note: "Inflammable" is changed to "flammable" for clarity, as both words**  
4557 **have the same meaning and flammable is used more often in the Code. The addition of**

4558 "Class 1" in describing the misdemeanor is added in keeping with the Code Commission  
4559 guidance that since misdemeanors with no stated punishment or maximum punishment  
4560 are designated as Class 1 misdemeanors according to § 18.2-12, they should be stated as  
4561 such in the Code when sections are amended or revised. Other changes are technical and  
4562 in keeping with current practice.

4563 § ~~33.1-348~~ 33.2-XXX. Junkyards; penalty.

4564 ~~(a)~~ A. For the purpose of promoting the public safety, health, welfare, convenience, and  
4565 enjoyment of public travel, ~~to protect~~ protecting the public investment in public highways, and  
4566 ~~to preserve~~ preserving and ~~enhance~~ enhancing the scenic beauty of lands bordering public  
4567 highways, it is hereby declared to be in the public interest to regulate and restrict the  
4568 establishment, operation, and maintenance of junkyards in areas adjacent to the highways within  
4569 ~~this~~ the Commonwealth.

4570 ~~(b)~~ For the purpose of B. As used in this section ~~the following definitions shall apply:~~

4571 ~~(1) "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash,~~  
4572 ~~rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron,~~  
4573 ~~steel, and other old or scrap ferrous or nonferrous material.~~

4574 ~~(2)~~ "Automobile graveyard" ~~shall mean~~ means any lot or place ~~which~~ that is exposed to  
4575 the weather and upon which more than five motor vehicles of any kind that are incapable of  
4576 being operated and which it would not be economically practical to make operative; are placed,  
4577 located, or found. The movement or rearrangement of vehicles within an existing lot or facility  
4578 does not render this definition inapplicable. The provisions established by this ~~subdivision~~  
4579 subsection shall begin with the first day that the vehicle is placed on the subject property.

4580 ~~(3) "Junkyard" shall mean an establishment or place of business which is maintained,~~  
4581 ~~operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or~~  
4582 ~~operation of an automobile graveyard, and the term shall include garbage dumps and sanitary~~  
4583 ~~fills.~~

4584 ~~(4) "Interstate system" shall mean the system presently defined in subsection (c) of 103~~  
4585 ~~of Title 23, United States Code.~~

4586 ~~(5) "Primary highway" shall mean any highway within the State Highway System as~~  
4587 ~~established and maintained under Article 2 (§ 33.1-25 et seq.), Chapter 1 of this title, including~~  
4588 ~~extensions of such System within municipalities.~~

4589 ~~(6) "Federal-aid primary highway" shall mean~~ means any highway within that portion of  
4590 ~~the State Highway System~~ primary state highway system as established and maintained under  
4591 ~~Article 2 XXX (§ 33.1-25 33.2-XXX et seq.); of Chapter 1 of this title 2,~~ including extensions of  
4592 such ~~System~~ system within municipalities, ~~which has that have~~ been approved by the U.S.  
4593 Secretary of Commerce pursuant to subsection (b) of 103 of Title 23, United States Code 23  
4594 U.S.C. § 103(b).

4595 "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber,  
4596 debris, waste, junked, dismantled, or wrecked automobiles or parts thereof, iron, steel, and other  
4597 old or scrap ferrous or nonferrous material.

4598 "Junkyard" means an establishment or place of business that is maintained, operated, or  
4599 used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an  
4600 automobile graveyard. "Junkyard" includes garbage dumps and sanitary landfills.

4601 ~~(7) "Visible" shall mean~~ means capable of being seen without visual aid by a person of  
4602 normal visual acuity.

4603 ~~(e) C.~~ No junkyard shall be ~~hereafter~~ established; ~~such that~~ any portion ~~of which~~ is  
4604 within ~~1,000'~~ 1,000 feet of the nearest edge of the right-of-way of any interstate or primary  
4605 highway or within ~~500'~~ 500 feet of the nearest edge of the right-of-way of any other highway or  
4606 city street, except the following:

4607 ~~(1) 1.~~ Junkyards ~~which that~~ are screened by natural objects, plantings, fences, or other  
4608 appropriate means so as not to be visible from the main-traveled way of the highway or city  
4609 street; or otherwise removed from sight.

4610           (2)-2. Junkyards ~~which that~~ are located in areas ~~which that~~ are zoned for industrial use  
4611 under authority of state law or in unzoned industrial areas as determined by the ~~Commonwealth~~  
4612 ~~Transportation~~ Board.

4613           (3)-3. Junkyards ~~which that~~ are not visible from the main-traveled way of the highway or  
4614 city street.

4615           (d)-D. Any junkyard lawfully in existence on April 4, 1968, ~~which that~~ is within ~~1,000'~~  
4616 1,000 feet of the nearest edge of the right-of-way and visible from the main-traveled way of any  
4617 ~~interstate~~ Interstate or federal-aid primary highway, and not located within an industrial area,  
4618 shall be screened, if feasible, by the Commissioner of Highways at locations on the highway  
4619 right-of-way or in areas acquired for such purposes outside the right-of-way, so as not to be  
4620 visible from the main-traveled way of such highways.

4621           Any junkyard lawfully in existence on April 4, 1968, ~~which that~~ is within ~~1,000'~~ 1,000  
4622 feet of the nearest edge of the right-of-way of any other primary highway or within ~~500'~~ 500 feet  
4623 of the nearest edge of the right-of-way of any other highway and visible from the main-traveled  
4624 way of such highway, and not located within an industrial area, may be screened by the  
4625 Commissioner of Highways in the same manner as junkyards adjacent to ~~interstate~~ Interstate or  
4626 federal-aid primary highways.

4627           The Commissioner of Highways is ~~hereby~~ authorized to acquire by purchase, gift, or the  
4628 power of eminent domain such lands or interests in lands as may be necessary to provide  
4629 adequate screening of such junkyards.

4630           (e)-E. When the Commissioner of Highways determines that the topography of the land  
4631 adjoining an ~~interstate~~ Interstate or federal-aid primary highway will not permit adequate  
4632 screening of such junkyards or the screening of such junkyards would not be economically  
4633 feasible, the Commissioner of Highways shall have the authority to acquire by gift, purchase, or  
4634 the power of eminent domain, such interests in lands as may be necessary to secure the  
4635 relocation, removal, or disposal of the junkyards, and to pay for the costs of their relocation,  
4636 removal, or disposal, ~~thereof~~. When the Commissioner of Highways determines that the

4637 topography of the land adjoining any other highway will not permit adequate screening or such  
4638 would not be feasible, the Commissioner of Highways may exercise the same authority to  
4639 relocate such junkyards as is vested in him in regard to ~~interstate~~ Interstate and federal-aid  
4640 primary highways.

4641 ~~(f)~~ F. Any junkyard ~~which that~~ comes into existence after April 4, 1968, and ~~which that~~  
4642 cannot be made to conform to this section, is declared to be a public and private nuisance and  
4643 may be forthwith removed, obliterated, or abated by the Commissioner ~~or his representatives of~~  
4644 Highways. The Commissioner of Highways may collect the cost of such removal, obliteration,  
4645 or abatement from the person owning or operating ~~such the~~ junkyard.

4646 ~~(g)~~ G. The ~~Commonwealth Transportation~~ Board is authorized to enter into agreements  
4647 with the United States as provided in 23 U.S.C. § 136 with respect to control of junkyards.

4648 ~~(h)~~ H. The Commissioner of Highways shall not be required to expend any funds for  
4649 screening or relocation under this section unless and until federal-aid matching funds are made  
4650 available for this purpose.

4651 ~~(i)~~ I. Any person violating any provision of this section ~~shall be is~~ guilty of a Class 1  
4652 misdemeanor.

4653 **Drafting note: Definitions are placed in alphabetical order and further conformed**  
4654 **to the style of the Code. The definitions for "Interstate system" and "primary highway"**  
4655 **are stricken because they are defined for the title in proposed § 33.2-100.**

4656 **The addition of "Class 1" in describing the misdemeanor in subsection I is added in**  
4657 **keeping with the Code Commission guidance that since misdemeanors with no stated**  
4658 **punishment or maximum punishment are designated as Class 1 misdemeanors according**  
4659 **to § 18.2-12, they should be stated as such in the Code when sections are amended or**  
4660 **revised. Technical changes are made.**

4661 #