

1 **TITLE 33.2 REVISION DRAFT, CHAPTER XXX**

2 CHAPTER XXX.

3 TRANSPORTATION FUNDING.

4 **Drafting note: This is a new chapter called Transportation Funding that relocates**
5 **existing Article 1.2, Virginia Transportation Infrastructure Bank; Article 9, Highway**
6 **Right-of-Way Fund; Acquisition of Properties for Future Use; Article 16, Virginia**
7 **Alternative Fuels Revolving Fund; and Article 1.3, Virginia Transportation Infrastructure**
8 **Bank, of Chapter 1 of Title 33.1 and adds two new articles, one called Transportation**
9 **Partnership Opportunity Fund and one called Funds for Access Roads, that group related**
10 **sections into articles as appropriate.**

11 Article ~~1.2~~ XXX.

12 Virginia Transportation Infrastructure Bank.

13 **Drafting note: Article 1.2, Virginia Transportation Infrastructure Bank, is**
14 **relocated from Chapter 1 of Title 33.1 to this new chapter.**

15 § ~~33.1-23.6~~ 33.2-XXX. Legislative findings and purposes.

16 The General Assembly finds that there exists in the Commonwealth a critical need for
17 additional sources of funding to finance the present and future needs of the Commonwealth for
18 the design and construction of ~~roads and~~ highways, including toll facilities; mass transit;
19 freight, passenger and commuter rail, including rolling stock; and port, airport, and other
20 transportation facilities. This need can be alleviated in part through the creation of a
21 transportation infrastructure bank. The purpose of such bank is to encourage the investment of
22 both public and private funds and to make loans and other financial assistance available to
23 localities, private entities, and other ~~Eligible Borrowers~~ eligible borrowers to finance eligible
24 transportation projects. The General Assembly determines that the creation of a transportation
25 infrastructure bank for this purpose is in the public interest, serves a public purpose, and will

26 promote the health, safety, welfare, convenience, or prosperity of the people of the
27 Commonwealth.

28 **Drafting note: This section is currently set out. In furtherance of the general policy**
29 **of the Virginia Code Commission to include in the Code only provisions having general**
30 **and permanent application and not those regarding policy and purpose, drafters**
31 **recommend that this section not be set out. Technical changes are made.**

32 § ~~33.1-23.7~~ 33.2-XXX. Definitions.

33 As used in this article, ~~whether in capitalized or uncapitalized form, each of the~~
34 ~~following terms has the meaning given it in this section,~~ unless the context requires a different
35 meaning ~~to be consistent with the manifest intention of the General Assembly:~~

36 "Bank" means the Virginia Transportation Infrastructure Bank created in § ~~33.1-23.8~~
37 33.2-XXX.

38 ~~"Board" means the Commonwealth Transportation Board.~~

39 "Cost," as applied to any project financed under the provisions of this article, means the
40 total of all costs, including, ~~but not limited to,~~ the costs of planning, design, right-of-way
41 acquisition, engineering, and construction, incurred by an ~~Eligible Borrower~~ eligible borrower
42 or other ~~Project Sponsor~~ project sponsor as reasonable and necessary for carrying out all works
43 and undertakings necessary or incident to the accomplishment of any project. ~~The term "Cost"~~
44 also includes capitalized interest; reasonably required reserve funds; and financing, credit
45 enhancement, and issuance costs.

46 "Credit enhancements" means surety bonds, insurance policies, letters of credit,
47 guarantees, and other forms of collateral or security.

48 "Creditworthiness" means attributes such as revenue stability, debt service coverage,
49 reserves, and other factors commonly considered in assessing the strength of the security for
50 indebtedness.

51 "Eligible ~~Borrower~~ borrower" means any (i) ~~Private Entity~~ private entity; (ii)
52 Governmental Entity governmental entity; (iii) instrumentality, corporation, or entity established

53 | by any of the foregoing pursuant to § ~~33.1-23.11~~ 33.2-XXX; or (iv) combination of two or more
54 | of the foregoing.

55 | "Finance" and any variation of the term, when used in connection with a cost or a
56 | project, includes both the initial financing and any refinancing of the cost or project and any
57 | variation of such terms.

58 | "Governmental ~~Entity~~ entity" means any (i) ~~Locality~~ locality; (ii) local, regional, state,
59 | or federal entity; transportation authority, planning district, commission, or political subdivision
60 | created by the General Assembly or pursuant to the Constitution and laws of the
61 | Commonwealth; or public transportation entity owned, operated, or controlled by one or more
62 | local entities; (iii) entity established by interstate compact; (iv) instrumentality, corporation, or
63 | entity established by any of the foregoing pursuant to § ~~33.1-23.11~~ 33.2-XXX; or (v) any
64 | combination of two or more of the foregoing.

65 | "Grant" means a transfer of moneys or property that does not impose any obligation or
66 | condition on the grantee to repay any amount to the transferor other than in connection with
67 | assuring that the transferred moneys or property will be spent or used in accordance with the
68 | governmental purpose of the transfer. ~~Such term "Grant" includes, without limitation,~~ direct
69 | cash payments made to pay or reimburse all or a portion of interest payments made by a grantee
70 | on a debt obligation. As provided in §§ ~~33.1-23.8~~ 33.2-XXX and ~~33.1-23.9~~ 33.2-XXX, only
71 | ~~Governmental Entities~~ governmental entities may receive grants of moneys or property held in
72 | or for the credit of the Bank.

73 | "Loan" means an obligation subject to repayment that is provided by the Bank to an
74 | ~~Eligible Borrower~~ eligible borrower to finance all or a part of the eligible cost of a project
75 | incurred by the ~~Eligible Borrower~~ eligible borrower or other ~~Project Sponsor~~ project sponsor. A
76 | loan may be disbursed (i) in anticipation of reimbursement (including an advance or draw under
77 | a credit enhancement instrument), (ii) as direct payment of eligible costs, or (iii) to redeem or
78 | defease a prior obligation incurred by the ~~Eligible Borrower~~ eligible borrower or other ~~Project~~
79 | ~~Sponsor~~ project sponsor to finance the eligible costs of a project.

80 "Locality" means any county, city, or town in the Commonwealth.

81 "Management agreement" means the memorandum of understanding or interagency
82 agreement among the ~~Manager~~ manager, the Secretary of Finance, and the Board as authorized
83 under subsection B of § ~~33.1-23.8~~ 33.2-XXX.

84 "Manager" means the Virginia Resources Authority serving as the manager,
85 administrator, and trustee of funds disbursed from the Bank in accordance with the provisions of
86 this article and the management agreement.

87 "Other financial assistance" means, but is not limited to, grants, capital or debt reserves
88 for bonds or debt instrument financing, provision of letters of credit and other forms of credit
89 enhancement, and other lawful forms of financing and methods of leveraging funds that are
90 approved by the Manager manager.

91 "Private ~~Entity~~ entity" means any private or nongovernmental entity that has executed
92 an interim or comprehensive agreement to develop and construct a transportation infrastructure
93 project pursuant to the Public-Private Transportation Act of 1995 (§ ~~56-556~~ 33.2-917 et seq.).

94 "Project" means (i) the construction, reconstruction, rehabilitation, or replacement of any
95 interstate, state highway, toll road, tunnel, local road, or bridge; ~~or~~ (ii) the construction,
96 reconstruction, rehabilitation, or replacement of any (a) mass transit, (b) commuter, passenger,
97 or freight rail, (c) port, (d) airport, or (e) commercial space flight facility; or (iii) the acquisition
98 of any rolling stock, vehicle, or equipment to be used ~~therewith~~ in conjunction with (i) or (ii).

99 "Project obligation" means any bond, note, debenture, interim certificate, grant or
100 revenue anticipation note, lease or lease-purchase or installment sales agreement, or credit
101 enhancements issued, incurred, or entered into by an ~~Eligible Borrower~~ eligible borrower to
102 evidence a loan, or any financing agreements, reimbursement agreements, guarantees, or other
103 evidences of an obligation of an ~~Eligible Borrower~~ eligible borrower or other ~~Project Sponsor~~
104 project sponsor to pay or guarantee a loan.

105 "Project ~~Sponsor~~ sponsor" means any ~~Private Entity~~ private entity or ~~Governmental~~
106 Entity governmental entity that is involved in the planning, design, right-of-way acquisition,
107 engineering, construction, maintenance, or financing of a project.

108 "Reliable repayment source" means any means by which an ~~Eligible Borrower~~ eligible
109 borrower or other ~~Project Sponsor~~ project sponsor generates funds that are dedicated to the
110 purpose of retiring a project obligation.

111 "Substantial project completion" means the opening of a project for vehicular or
112 passenger traffic or the handling of cargo and freight.

113 **Drafting note: Changes made to the introduction to the definitions section are to**
114 **comport with current practice. Stricken definitions were repetitive of those in the**
115 **proposed definitions section, § 33.2-100, which apply to the entire title. The phrases "but**
116 **not limited to" and "without limitation" in the definitions of "cost," "grant," and "other**
117 **financial assistance" are removed based on § 1-218, which states: "'Includes' means**
118 **includes, but not limited to." Other changes are technical.**

119 ~~§ 33.1-23.8~~ 33.2-XXX. Creation of the Virginia Transportation Infrastructure Bank.

120 A. There is hereby created in the state treasury a special nonreverting, revolving loan
121 fund that is a subfund of the Transportation Trust Fund, known as the Virginia Transportation
122 Infrastructure Bank. The Bank shall be established on the books of the Comptroller. The Bank
123 shall be capitalized with moneys appropriated by the General Assembly and credited to the
124 Bank. Disbursements from the Bank shall be made by the State Treasurer on warrants issued by
125 the Comptroller upon written request signed by the Commissioner of Highways or his or her
126 designee. Payments on project obligations and interest earned on the moneys in the Bank shall
127 be credited to the Bank. Any moneys remaining in the Bank, including interest thereon, at the
128 end of each fiscal year shall not revert to the general fund but shall remain in the Bank.
129 Notwithstanding anything to the contrary set forth in this article or in the management
130 agreement, the Board will have the right to determine the projects for which loans or other

131 financial assistance may be provided by the Bank. Moneys in the Bank shall be used solely for
132 the purposes enumerated in subsections C and D.

133 B. The Board, the ~~Manager~~ manager, and the Secretary of Finance are authorized to
134 enter into a management agreement which may include provisions (i) setting forth the terms and
135 conditions under which the ~~Manager~~ manager will advise the Board on the financial propriety of
136 providing particular loans or other financial assistance, (ii) setting forth the terms and conditions
137 under which the substantive requirements of subsections C through F and § ~~33.1-23.11~~ 33.2-
138 XXX will be applied and administered, and (iii) authorizing the ~~Manager~~ manager to request the
139 Board to disburse from the moneys in the Bank, the reasonable costs and expenses the ~~Manager~~
140 manager may incur in the management and administration of the Bank and a reasonable fee to
141 be approved by the Board for the ~~Manager's~~ manager's management and administrative services.

142 C. 1. Moneys deposited in the Bank shall be used for the purpose of making loans and
143 other financial assistance to finance projects.

144 2. Each project obligation shall be payable, in whole or in part, from reliable repayment
145 sources pledged for such purpose.

146 3. The interest rate on a project obligation shall be determined by reference to the current
147 market rates for comparable obligations, the nature of the project and the financing structure
148 therefor, and the creditworthiness of the ~~Eligible Borrower~~ eligible borrower and other ~~Project~~
149 Sponsors project sponsors.

150 4. The repayment schedule for each project obligation shall require (i) the amortization
151 of principal beginning within five years following the later of substantial project completion or
152 the date of incurrence of the project obligation and (ii) a final maturity date of not more than 35
153 years following substantial project completion.

154 D. A portion not to exceed 20 percent of the capitalization of the Bank may be used for
155 grants to ~~Governmental Entities~~ governmental entitites to finance projects.

156 E. The pledge of reliable repayment sources and other property securing any project
157 obligation may be subordinate to the pledge securing any other senior debt obligations incurred
158 to finance the project.

159 F. Notwithstanding subdivision C 4, the ~~Manager~~ manager may at any time following
160 substantial project completion defer payments on a project obligation if the project is unable to
161 generate sufficient revenues to pay the scheduled payments.

162 G. No loan or other financial assistance may be provided or committed to be provided by
163 the Bank in a manner that would cause such loan or other financial assistance to be tax-
164 supported debt within the meaning of § 2.2-2713 or be deemed to constitute a debt of the
165 Commonwealth ~~of Virginia~~ or a pledge of the full faith and credit of the Commonwealth but
166 shall be payable solely from legally available moneys held by the Bank.

167 H. Neither the Bank nor the ~~Manager~~ manager is authorized or empowered to be or to
168 constitute (i) a bank or trust company within the jurisdiction or under the control of the
169 Commonwealth or an agency thereof or the Comptroller of Currency of the U.S. Treasury
170 Department; or (ii) a bank, banker, or dealer in securities within the meaning of, or subject to
171 the provisions of, any securities, securities exchange, or securities dealers law of the United
172 States or of the Commonwealth.

173 I. The Board or the ~~Manager~~ manager may establish or direct the establishment of
174 federal and state accounts or subaccounts as may be necessary to meet any applicable federal
175 law requirements or desirable for the efficient administration of the Bank in accordance with
176 this article.

177 **Drafting note: Changes made were to comport with current practice. Other**
178 **changes are technical.**

179 § ~~33.1-23.9~~ 33.2-XXX. Eligibility and project selection.

180 A. Any entity constituting an ~~Eligible Borrower~~ eligible borrower or other ~~Project~~
181 ~~Sponsor~~ project sponsor is eligible to apply to the Board for project financing from the Bank.

182 | B. Notwithstanding subsection A, only ~~Governmental Entities~~ governmental entities are
183 | eligible to apply for a grant from the Bank.

184 | C. Any ~~Governmental Entity~~ governmental entity applying for a grant must demonstrate,
185 | among other things as determined by the ~~Manager~~ manager, that the project cannot be financed
186 | on reasonable terms or would otherwise be financially infeasible without the grant.

187 | D. All applicants for a loan or other financial assistance (other than a grant) must file an
188 | application with the Board, which must include all items determined by the Board in
189 | consultation with the ~~Manager~~ manager to be necessary and appropriate for the Board to
190 | determine whether or not to approve the loan, including the availability of reliable repayment
191 | sources to retire the project obligation as well as creditworthiness.

192 | E. Each applicant for a loan or other financial assistance must demonstrate that the
193 | project is of local, regional, or statewide significance, and that it meets the goal of generating
194 | economic benefits, improving air quality, reducing congestion, ~~and/or~~ or improving safety
195 | through enhancement of the state transportation network. Another criterion to be considered is
196 | whether or not the loan or other financial assistance will enable the project to be completed at an
197 | earlier date than would otherwise be feasible. The Board shall issue guidelines for scoring
198 | projects in accordance with the criteria set out in this subsection and any other criteria deemed
199 | necessary and appropriate for evaluating projects as determined by the Board in consultation
200 | with the ~~Manager~~ manager and shall apply the scoring guidelines to each proposed project.
201 | Further, the Board shall promptly publish each proposed project and its score using the scoring
202 | guidelines.

203 | F. All projects for which a loan or other financial assistance is provided must meet and
204 | remain in compliance with the policies and guidelines established by the Board and the ~~Manager~~
205 | manager.

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

207 | ~~§ 33.1-23.10~~ 33.2-XXX. Grants from the Commonwealth Transportation Board.

208 The Board may make grants of money or property to the Bank for the purpose of
209 enabling it to carry out its corporate purposes and for the exercise of its powers. This section
210 shall not be construed to limit any other power the Board may have to make grants to the Bank.

211 **Drafting note:**

212 § ~~33.1-23.11~~ 33.2-XXX. Project ~~Obligations~~ obligations.

213 A. Subject to the terms determined by the ~~Manager~~ manager in accordance with the
214 management agreement, each loan or other financial assistance (which for purposes of this
215 section shall not include grants) shall be evidenced or guaranteed by project obligations
216 provided to finance the costs of any project. The ~~Manager~~ manager may also sell any project
217 obligations so acquired and apply the proceeds of such a sale to the making of additional loans
218 and the provision of other financial assistance for financing the cost of any project or for any
219 other corporate purpose of the Bank.

220 B. The ~~Manager~~ manager may require, as a condition to provision of a loan or other
221 financial assistance and the acquisition of any project obligations, that the ~~Eligible Borrower~~
222 eligible borrower or any other ~~Project Sponsor~~ project sponsor covenant to perform any of the
223 following:

224 1. Establish and collect tolls, rents, rates, fees, and other charges to produce revenue
225 sufficient to pay all or a specified portion of (i) the costs of operation, maintenance,
226 replacement, renewal, and repairs of the project; (ii) any outstanding indebtedness incurred for
227 the purposes of the project, including the principal of and premium, if any, and interest on the
228 project obligations; and (iii) any amounts necessary to create and maintain any required reserve,
229 including any rate stabilization fund deemed necessary or appropriate by the ~~Manager~~ manager
230 to offset the need, in whole or part, for future increases in tolls, rents, rates, fees, or charges;

231 2. Create and maintain a special fund or funds as security for or the source of the
232 scheduled payments on the project obligations or for the operation, maintenance, repair, or
233 replacement of the project or any portions thereof or other property of the ~~Eligible Borrower~~

234 eligible borrower or any other ~~Project Sponsor, project sponsor~~ and deposit into any fund or
235 funds amounts sufficient to make any payments as they become due and payable;

236 3. Create and maintain other special funds as required by the ~~Manager~~ manager; and

237 4. Perform other acts, including the conveyance or mortgaging of real and personal
238 property together with all right, title, and interest therein to secure project obligations, or take
239 other actions as may be deemed necessary or desirable by the ~~Manager~~ manager to secure
240 payment of the project obligations and to provide for remedies in the event of any default or
241 nonpayment by the ~~Eligible Borrower~~ eligible borrower or any other ~~Project Sponsor~~ project
242 sponsor, including, ~~without limitation~~, any of the following:

243 a. The procurement of credit enhancements or liquidity arrangements for project
244 obligations from any source, public or private, and the payment therefor of premiums, fees, or
245 other charges.

246 b. The combination of one or more projects, or the combination of one or more projects
247 with one or more other undertakings, facilities, or systems, for the purpose of operations and
248 financing, and the pledging of the revenues from such combined projects, undertakings,
249 facilities, and systems to secure project obligations issued in connection with such combination
250 or any part or parts thereof.

251 c. The payment of such fees and charges in connection with the acquisition of the project
252 obligations as may be determined by the ~~Manager~~ manager.

253 C. All ~~Eligible Borrowers~~ eligible borrowers and other ~~Project Sponsors~~ project
254 sponsors, including any ~~Governmental Entities~~ governmental entities, providing project
255 obligations to the Bank are authorized to perform any acts, take any action, adopt any
256 proceedings, and make and carry out any contracts with the Bank, the ~~Manager~~ manager, or the
257 Board that are contemplated by this article. Such contracts need not be identical among all
258 ~~Eligible Borrowers~~ eligible borrowers or other ~~Project Sponsors~~ project sponsors, but may be
259 structured as determined by the ~~Manager~~ manager according to the needs of the contracting

260 ~~Eligible Borrowers~~ eligible borrowers and other ~~Project Sponsors~~ project sponsors and the
261 purposes of the Bank.

262 In addition, subject to the approval of the ~~Manager~~ manager, any ~~Project Sponsor~~ project
263 sponsor is authorized to establish and contract with a special purpose or limited purpose
264 instrumentality, corporation, or other entity for the purpose of having such entity serve as the
265 ~~Eligible Borrower~~ eligible borrower with respect to a particular project.

266 **Drafting note: The phrase "without limitation" in subdivision B 4 is removed based**
267 **on § 1-218, which states: "'Includes' means includes, but not limited to." Technical**
268 **changes are made.**

269 § ~~33.1-23.12~~ 33.2-XXX. Exemption from taxation; exemption from Virginia Public
270 Procurement Act.

271 A. The Bank will be performing an essential governmental function in the exercise of the
272 powers conferred upon it by this article. Accordingly, the Bank shall not be required to pay any
273 taxes or assessments to the Commonwealth or its localities or any political subdivision thereof
274 upon any capital, moneys or any property or upon any operations of the Bank or the income
275 therefrom, or any taxes or assessments upon any project or any property or project obligation
276 acquired by the Bank under the provisions of this article or upon the income therefrom.

277 B. The provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not
278 apply to the Bank in the exercise of any power conferred under this article.

279 **Drafting note:**

280 § ~~33.1-23.13~~ 33.2-XXX. Reporting requirement.

281 A. No loan or other financial assistance shall be awarded from the Bank until the
282 Secretary ~~of Transportation~~ has provided copies of the management agreement and related
283 criteria and guidelines to the Chairmen of the House Committees on Appropriations, Finance,
284 and Transportation and the Senate Committees on Finance and Transportation.

285 B. Within 30 days after each six-month period ending June 30 and December 31, the
286 ~~Manager~~ manager shall provide a report to the Chairmen of the House Committees on

287 Appropriations, Finance, and Transportation and the Senate Committees on Finance and
288 Transportation, which shall include, ~~but not be limited to~~, the amounts of loans and other
289 financial assistance provided by the Bank and the projects for which the loans and other
290 financial assistance were provided.

291 **Drafting note: Technical changes are made to keep references consistent with the**
292 **title-wide definitions section. The phrase "but not be limited to" is stricken per the**
293 **definition of "includes" found in § 1-218, which states "'includes' means includes, but not**
294 **limited to."**

295 Article ~~9~~ XXX.

296 Highway Right-of-Way Fund; Acquisition of Properties ~~for Future Use~~.

297 § ~~33.1-137~~ 33.2-XXX. Highway Right-of-Way Fund established.

298 There is hereby established and created in the state treasury the Highway Right-of-Way
299 Fund.

300 **Drafting note:**

301 § ~~33.1-138~~ 33.2-XXX. How fund expended.

302 All money deposited in or transferred to the Highway Right-of-Way Fund shall be
303 expended by the ~~Commonwealth Transportation~~ Board for the acquisition of properties to
304 constitute rights-of-way for highways and streets, including those within cities and towns. The
305 Board shall expend such fund for acquisition of properties ~~which~~ that will be needed for future
306 highway construction purposes, whenever the Commissioner of Highways deems such
307 acquisition necessary, due to the probability of development of such properties, and after the
308 State Right-of-Way Engineer declares prompt acquisition is required to prevent such
309 development and consequent higher acquisition and construction costs when the highway
310 project is to be constructed.

311 Such acquisition is hereby declared to be in the public interest and any properties so
312 acquired are deemed to be acquired for a public use.

313 **Drafting note: Changes are made to keep references consistent with the definitions**
314 **of the title.**

315 § ~~33.1-139~~ 33.2-XXX. Procedure for acquisition of properties.

316 The procedure for acquiring such properties shall be mutatis mutandis the same as
317 provided for the acquisition of land or interest therein by the Commissioner of Highways in
318 ~~Article 7 (§ 33.1-89 et seq.) of this chapter~~ 33.2-XXX, except that no proceeding instituted for
319 the purposes of acquiring property ~~hereunder pursuant to this section~~ shall fail for lack of a
320 completed construction plan for the highway for which property is being acquired. In lieu of a
321 centerline description, any land or interest therein acquired ~~hereunder pursuant to this section~~
322 may be described by metes and bounds, or any other recognized method of describing
323 boundaries to land.

324 **Drafting note: Technical changes.**

325 § ~~33.1-140~~ 33.2-XXX. Sale or lease of properties acquired.

326 The Commissioner of Highways may sell or otherwise dispose of any improvements on
327 lands acquired under the terms of this chapter, or lease such land and improvements until such
328 time as the land is needed for immediate highway construction purposes. Any residue parcels of
329 lands so acquired ~~which that~~ are found to be unnecessary for highway purposes may be sold or
330 otherwise disposed of by the Commissioner of Highways.

331 All revenues received from the rental or disposition of such land and improvements shall
332 be deposited in the Highway Right-of-Way Fund.

333 **Drafting note: Technical changes are made. The reference to sale or lease of**
334 **properties acquired under this "chapter" needs modification according to its new location;**
335 **potential change to this "article."**

336 § ~~33.1-141~~ 33.2-XXX. Amount to be set aside annually for ~~fund~~ Highway Right-of-Way
337 Fund.

338 Notwithstanding any other provisions of law, from all funds available to the
339 ~~Commonwealth Transportation~~ Board for highway purposes, and after the cost of administration

340 but before any of such funds are distributed and allocated for any ~~road~~ highway or street
341 purposes, the Board ~~shall set aside a minimum of five million dollars each year of the 1968-~~
342 ~~1970 biennium for the Highway Right-of-Way Fund and~~ may set aside each year ~~thereafter may~~
343 ~~set aside~~ such funds as the Board deems necessary and desirable to carry out the purpose of the
344 ~~fund~~ Fund.

345 **Drafting note: Changes are made to keep references consistent with the definitions**
346 **of the title. Obsolete language regarding funds set aside from 1968 through 1970 is**
347 **stricken and the language for subsequent years is retained.**

348 § ~~33.1-142~~ 33.2-XXX. Deposit in ~~fund~~ Fund of amount expended in acquisition of
349 properties.

350 Whenever, after acquisition of any property under this article, the ~~Commonwealth~~
351 Transportation Board proceeds with the construction of a highway project ~~which~~ that will
352 require the use of any of the property so acquired, the Board shall deposit in the Highway Right-
353 of-Way Fund, from other funds available, the amount expended to pay the cost of such
354 properties.

355 **Drafting note: Changes are made to keep references consistent with the definitions**
356 **of the title.**

357 § ~~33.1-143~~ 33.2-XXX. Intention of article.

358 It is the intention of this article to provide a revolving fund for the purpose of acquiring
359 properties to be used for highway rights-of-way at a time before development of such properties
360 so as to minimize the costs of highway construction and reduce the inconvenience to owners of
361 property within a proposed highway project.

362 **Drafting note:**

363 Article XXX.

364 Transportation Partnership Opportunity Fund.

365 § ~~33.1-221.1:8~~ 33.2-XXX. Transportation Partnership Opportunity Fund.

366 A. There is hereby created the Transportation Partnership Opportunity Fund (the Fund)
367 to be used by the Governor to encourage the development of transportation projects through
368 design-build pursuant to subdivision (2)(b) of § ~~33.1-12~~ 33.2-XXX, the Public-Private
369 Transportation Act (§ ~~56-556~~ 33.2-917 et seq.) and to provide funds to address the
370 transportation aspects of economic development opportunities. The Fund shall consist of any
371 funds appropriated to it by the general appropriation act and revenue from any other source,
372 public or private. The Fund shall be established on the books of the Comptroller, and any funds
373 remaining in the Fund at the end of a biennium shall not revert to the general fund but shall
374 remain in the Fund. All interest and dividends that are earned on the Fund shall be credited to
375 the Fund. The Governor shall report to the ~~chairmen~~ Chairmen of the House Committees on
376 Appropriations, Finance, and Transportation and the Senate Committees on Finance and
377 Transportation as funds are awarded in accordance with this section.

378 B. The Fund shall be a component of the Commonwealth Transportation Fund but not a
379 component or subcomponent of the Transportation Trust Fund or the Highway Maintenance and
380 Operating Fund. Provisions of this title and Title 58.1 relating to the allocations or disbursements of
381 proceeds of the Commonwealth Transportation Fund, the Transportation Trust Fund, or the
382 Highway Maintenance and Operating Fund shall not apply to the Fund.

383 C. Funds shall be awarded from the Fund by the Governor as grants, revolving loans, or
384 other financing tools and equity contributions to (i) an agency or political subdivision of the
385 Commonwealth or (ii) a private entity or operator ~~which~~ that has submitted a proposal or signed
386 a comprehensive agreement to develop a transportation facility pursuant to the Public-Private
387 Transportation Act of 1995 (§ ~~56-556~~ 33.2-917 et seq.). Loans shall be approved by the
388 Governor and made in accordance with procedures established by the ~~Commonwealth~~
389 ~~Transportation~~ Board and approved by the Comptroller. Loans shall be interest-free and shall be
390 repaid to the Fund. The Governor may establish the duration of any loan, but such term shall not
391 exceed seven years. The ~~Virginia~~ Department ~~of Transportation~~ shall be responsible for

392 monitoring repayment of such loans and reporting the receivables to the Comptroller as
393 required.

394 D. Grants or revolving loans may be used for transportation capacity development on
395 and off site; road, rail, mass transit, or other transportation access costs beyond the funding
396 capability of existing programs; studies of transportation projects, including ~~but not limited to~~
397 environmental analysis, geotechnical assessment, survey, design and engineering, advance right-
398 of-way acquisition, traffic analysis, toll sensitivity studies, financial analysis; or anything else
399 permitted by law. Funds may be used for any transportation project or any transportation
400 facility. Any transportation infrastructure completed with moneys from the Fund shall not
401 become private property, and the results of any studies or analysis completed as a result of a
402 grant or loan from the Fund shall be property of the Commonwealth.

403 E. The ~~Commonwealth Transportation~~ Board, in consultation with the Secretary of
404 Transportation and the Secretary of Commerce and Trade, shall develop guidelines and criteria
405 that shall be used in awarding grants or making loans from the Fund; however, no grant shall
406 exceed \$5 million and no loan shall exceed \$30 million. No grant or loan shall be awarded until
407 the Governor has provided copies of the guidelines and criteria to the ~~chairmen~~ Chairmen of the
408 House Committees on Appropriations, Finance, and Transportation and the Senate Committees
409 on Finance and Transportation. The guidelines and criteria shall include provisions including;
410 ~~but not limited to~~, the number of jobs and amounts of investment that must be committed in the
411 event moneys are being used for an economic development project, a statement of how the
412 studies and analysis to be completed using moneys from the Fund will advance the development
413 of a transportation facility, a process for the application for and review of grant and loan
414 requests, a timeframe for completion of any work, the comparative benefit resulting from the
415 development of a transportation project, assessment of the ability of the recipient to repay any
416 loan funds, and other criteria as necessary to support the timely development of transportation
417 projects. The criteria shall also include incentives to encourage matching funds from any other
418 local, federal, or private source.

419 F. Within 30 days of each six-month period ending June 30 and December 31, the
420 Governor shall provide a report to the ~~chairmen~~ Chairmen of the House Committees on
421 Appropriations, Finance, and Transportation and the Senate Committees on Finance and
422 Transportation ~~which that~~ shall include, ~~but is not limited to~~, the following information: the
423 ~~location (county, city, or town) of~~ locality in which the project is taking place; the amount of the
424 grant or loan made or committed from the Fund and the purpose for which it will be used; the
425 number of jobs created or projected to be created; and the amount of a company's investment in
426 the Commonwealth if the project is part of an economic development opportunity.

427 G. The Governor shall provide grants and commitments from the Fund in an amount not
428 to exceed the total value of the moneys contained in the Fund. If the Governor commits funds
429 for years beyond the fiscal years covered under the existing appropriation act, the State
430 Treasurer shall set aside and reserve the funds the Governor has committed, and the funds set
431 aside and reserved shall remain in the Fund for those future fiscal years. No grant or loan shall
432 be payable in the years beyond the existing appropriation act unless the funds are currently
433 available in the Fund.

434 **Drafting note: Changes made were to keep references consistent with the**
435 **definitions of the title. The phrases "but not limited to" and "but is not limited to" in**
436 **subsections D, E, and F are removed based on § 1-218, which states: "'Includes' means**
437 **includes, but not limited to." Other changes are technical.**

438 ~~Article 16 XXX.~~

439 Virginia Alternative Fuels Revolving Fund.

440 ~~§ 33.1-223.3 33.2-XXX.~~ Definitions.

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

442 "Alternative fuel" means a motor fuel used as an alternative to gasoline and diesel fuel.
443 Alcohol/gasoline blended fuels ~~which that~~ contain less than ~~eighty five~~ 85 percent ethanol or
444 methanol shall not be considered alternative fuels for the purposes of this article.

445 ~~"Commissioner" means the Commissioner of Highways.~~

446 "Fund" means the Virginia Alternative Fuels Revolving Fund.

447 "Program" means a voluntary program undertaken by the Commonwealth or a municipal
448 or county government to convert its public vehicles, including school buses, in order to use
449 alternative fuels.

450 **Drafting note: Stricken definitions can be found in the proposed title-wide**
451 **definitions section, § 33.2-100. Technical changes are made.**

452 § ~~33.1-223.4~~ 33.2-XXX. Creation and management of Virginia Alternative Fuels
453 Revolving Fund.

454 There shall be a permanent revolving fund known as the Virginia Alternative Fuels
455 Revolving Fund.

456 The goal of the Fund shall be:

- 457 1. To improve air quality in ~~Virginia~~ the Commonwealth.
- 458 2. To reduce dependence on imported fuels.
- 459 3. To reduce the costs of the purchase and operation of publicly owned vehicles in
460 ~~Virginia~~ the Commonwealth, including costs of fuel, life of the vehicle, and personnel costs.
- 461 4. To improve the economy of ~~Virginia~~ the Commonwealth.
- 462 5. To accomplish such goals by loans or grants, with matching grants to be given
463 preference.
- 464 6. To include all kinds of alternative ~~fuels~~ fuel-powered vehicles, including ~~but not~~
465 ~~limited to~~, electric, hydrogen-powered, and natural gas-powered vehicles.

466 7. To improve infrastructure such as refueling stations.

467 The Fund shall ~~be comprised~~ consist of (i) sums appropriated to it by the General
468 Assembly, (ii) receipts by the Fund from loans made by it, (iii) all income from the investment
469 of moneys held by the Fund, and (iv) any other sums designated for deposit to the Fund from
470 any source, public or private. The Fund shall be administered and managed by the
471 Commissioner of Highways and shall be used solely for the purpose of financing programs as
472 provided in § ~~33.1-223.7~~ 33.2-XXX.

473 **Drafting note: Changes made are to comport with current practice. The phrase**
474 **"but not limited to" in subdivision 6 is removed based on § 1-218, which states: "'Includes'**
475 **means includes, but not limited to." Technical changes are made.**

476 § ~~33.1-223.5~~ 33.2-XXX. Deposit of ~~money~~ moneys.

477 All ~~money~~ moneys belonging to the Fund shall be recorded on the books of the State
478 Comptroller and deposited in accounts in banks or trust companies organized under the laws of
479 the Commonwealth, in federally chartered banking institutions located in ~~Virginia~~ the
480 Commonwealth, or in savings institutions located in ~~Virginia~~ the Commonwealth organized
481 under the laws of the Commonwealth or the United States. ~~Money~~ Moneys in the Fund not
482 needed for immediate use or disbursement may be invested or reinvested by the State Treasurer
483 in obligations or securities that are considered lawful investments for public funds under the
484 laws of the Commonwealth. Earnings from investments and interest shall be returned to the
485 Fund.

486 **Drafting note: Changes are made to comport with current practice.**

487 § ~~33.1-223.6~~ 33.2-XXX. Collection of money due to the Fund.

488 The Commissioner of Highways or his designated agent is empowered to collect
489 amounts due to the Fund under any loan made to a municipal or county government, including,
490 if appropriate, taking the action required by § ~~15.2-2659~~ 33.2-XXX to obtain payment of any
491 amounts in default. Proceedings to recover amounts due to the Fund may be instituted by the
492 Commissioner of Highways in the name of the Fund in any appropriate circuit court.

493 **Drafting note: Changes are made to comport with current practice.**

494 § ~~33.1-223.7~~ 33.2-XXX. Loans to municipal and county governments and to the
495 Commonwealth.

496 A. Except as otherwise provided in this chapter, ~~money~~ moneys in the Fund shall be
497 used to make loans to municipal and county governments and to the Commonwealth for the
498 purpose of supporting programs and assisting localities with costs incurred for the conversion of
499 fuel systems and other necessary vehicle alternative fuel components, the maintenance and

500 repair of vehicle alternative fuel components, and the testing and evaluating needed to
501 determine the benefits and savings realized by using such alternative fuels.

502 B. The Commissioner [of Highways](#) shall determine the terms and conditions of any loan
503 from the Fund, including ~~but not limited to~~, the interest rate and repayment terms of each loan.
504 Such interest rates shall be based on the savings realized by utilizing the alternative fuel;
505 however, no interest shall be charged if no savings are realized. All loans shall be evidenced by
506 appropriate security. The Commissioner [of Highways](#) is authorized to require in connection with
507 any loans from the Fund any documents, instruments, certificates, legal opinions, or other
508 information deemed necessary or convenient.

509 C. The buying down or making of interest rate subsidies shall be accorded the same
510 priority as the making of loans.

511 D. The Commissioner [of Highways](#) shall adopt regulations to administer the Fund. The
512 Commissioner [of Highways](#) shall also adopt regulations ~~which that~~ establish the standards and
513 criteria by which grants and loans will be made. Such standards shall give priority to
514 nonattainment areas and to fleets.

515 **Drafting note: Changes are made to keep references consistent with the definitions**
516 **of the title. The phrase "but not limited to" in subsection B is removed based on § 1-218,**
517 **which states: "'Includes' means includes, but not limited to." Other changes are technical.**
518 **Reference to "chapter" needs more consideration; possible change to "article."**

519 § ~~33.1-223.8~~ [33.2-XXX](#). Annual audit.

520 The Auditor of Public Accounts shall annually audit the accounts of the Fund when he
521 audits the records of the Department ~~of Transportation~~.

522 **Drafting note: Changes are made to keep references consistent with the definitions**
523 **of the title.**

524 § ~~33.1-223.9~~ [33.2-XXX](#). Liberal construction of article.

525 The provisions of this article shall be liberally construed. If a provision of this article is
526 in conflict with the provision of any other general, special, or local law, the provision of this
527 article shall be controlling.

528 **Drafting note:**

529 [Article XXX.](#)

530 [Funds for Access Roads.](#)

531 § ~~33.1-224~~ [33.2-XXX](#). Funds for access roads to economic development sites and
532 airports; construction, maintenance, etc., of such roads.

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

539 Such funds shall be expended by the Board for constructing, reconstructing, maintaining,
540 or improving access roads within ~~counties, cities and towns~~ [localities](#) to economic development
541 sites on which manufacturing, processing, research and development facilities, distribution
542 centers, regional service centers, corporate headquarters, or other establishments that also meet
543 basic employer criteria as determined by the Virginia Economic Development Partnership in
544 consultation with the ~~Virginia~~ Department of Business Assistance will be built under firm
545 contract or are already constructed and to licensed, public-use airports; in the event there is no
546 such establishment or airport already constructed or for which the construction is under firm
547 contract, a ~~county, city, or town~~ [locality](#) may guarantee to the Board by bond or other acceptable
548 device that such will occur and, should no establishment or airport acceptable to the Board be
549 constructed or under firm contract within the time limits of the bond, such bond shall be
550 forfeited. The time limits of the bond shall be based on regular review and consideration by the
551 Board. Towns ~~which that~~ receive highway maintenance payments under § ~~33.1-41.1~~ [33.2-x](#) shall

552 be considered separately from the counties in which they are located when receiving allocations
553 of funds for access roads.

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

561 C. Any access road constructed or improved under this section shall constitute a part of
562 the secondary system of state highways or the road system of the locality in which it is located
563 and shall thereafter be constructed, reconstructed, maintained, and improved as other roads in
564 such system.

565 **Drafting note: Changes are made to keep references consistent with the definitions**
566 **of the title.**

567 § ~~33.1-223~~ 33.2-XXX. Fund for access roads and bikeways to public recreational areas
568 and historical sites; construction, maintenance, etc., of such facilities.

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

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

577 B. The ~~Commonwealth Transportation~~ Board shall, from funds allocated to the primary
578 system, secondary system, or urban system of ~~state~~ highways, set aside the sum of \$3 million

579 initially. This fund shall be expended by the Board for the construction, reconstruction,
580 maintenance, or improvement of access roads and bikeways within ~~counties, cities and towns~~
581 localities. At the close of each succeeding fiscal year, the Board shall replenish this fund to the
582 extent it deems necessary to carry out the purpose intended, provided the balance in the fund
583 plus the replenishment does not exceed ~~the aforesaid~~ \$3 million.

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

587 1. When the Director of the Department of Conservation and Recreation has designated
588 a public recreational area as such or when the Director of the Department of Historic Resources
589 has determined a site or area to be historic and recommends to the ~~Commonwealth~~
590 Transportation Board that an access road or bikeway be provided or maintained to that area;

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

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

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

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

601 D. Any access road constructed, reconstructed, maintained, or improved pursuant to the
602 provisions of this section shall become part of the primary state highway system ~~of state~~
603 highways, the secondary state highway system ~~of state highways~~, or the ~~road~~ highway system of
604 the locality in which it is located in the manner provided by law, and shall thereafter be
605 constructed, reconstructed, maintained, and improved as other ~~roads~~ highways in such systems.

606 Any bikeway path constructed, reconstructed, maintained, or improved pursuant to the
607 provisions of this section which is not situated within the right-of-way limits of an access road
608 ~~which that~~ has become, or which is to become, part of the primary state highway system ~~of state~~
609 ~~highways~~, the secondary state highway system ~~of state highways~~, or the ~~road~~ highway system of
610 the locality, shall, upon completion, become part of and be regulated and maintained by the
611 authority or agency maintaining the public recreational area or historical site. It shall be the
612 responsibility of the authority, agency, or locality requesting that a bicycle path be provided for
613 a public recreational or historical site to provide the right-of-way needed for the construction,
614 reconstruction, maintenance, or improvement of the bicycle path if such is to be situated outside
615 the right-of-way limits of an access road.

616 To maximize the impact of the Fund, not more than \$400,000 of recreational access
617 funds may be allocated for each individual access road project to or within any public
618 recreational area or historical site operated by a state agency, and not more than \$250,000 of
619 recreational access funds may be allocated for each individual access road project to or within a
620 public recreational area or historical site operated by a locality or an authority with an additional
621 \$100,000 if supplemented on a dollar-for-dollar basis by the locality or authority from other
622 than highway sources. Not more than \$75,000 of recreational access funds may be allocated for
623 each individual bikeway project to a public recreational area or historical site operated by a state
624 agency, and not more than \$60,000 of recreational access funds may be allocated for each
625 individual bikeway project to a public recreational area or historical site operated by a locality
626 or an authority with an additional \$15,000 if supplemented on a dollar-for-dollar basis by a
627 locality or authority from other than highway sources.

628 The ~~Commonwealth Transportation~~ Board, with the concurrence of the Director of the
629 Department of Conservation and Recreation, is hereby authorized to make regulations to carry
630 out the provisions of this section.

631 **Drafting note: Technical changes are made, including those to maintain consistency**
632 **throughout this title and to keep references consistent with the definitions of the title.**
633 **Subsection A is a policy statement, which is not normally set out.**

634 Article ~~1.3~~ XXX.

635 Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes.

636 § ~~33.1-23.14~~ 33.2-XXX. ~~Short title; definitions~~ Definitions.

637 A. ~~This article shall be known and may be cited as the "Commonwealth of Virginia~~
638 ~~Federal Transportation Grant Anticipation Revenue Notes Act of 2011."~~

639 ~~B.~~ As used in this article, unless the context requires a different meaning:

640 "Federal highway reimbursements" means all federal-aid highway construction
641 reimbursements and any other federal highway assistance received from time to time by the
642 Commonwealth under or in accordance with Title 23 of the United States Code or any successor
643 program established under federal law from the Federal Highway Administration and any
644 successor or additional federal agencies.

645 "GARVEE" means an "eligible debt financing instrument" as defined under § 122 of
646 Chapter 1 of Title 23 of the United States Code, the principal of and interest on which and
647 certain other costs associated therewith may be reimbursed by federal highway reimbursements.

648 "Notes" means those notes authorized and issued pursuant to § ~~33.1-23.15~~ 33.2-XXX.

649 "Project-specific reimbursements" means the federal highway reimbursements received
650 by the Commonwealth from time to time only with respect to the project or projects to be
651 financed by the Notes or any series thereof.

652 "Series" means any grouping of Notes issued at one time or from time to time as
653 designated as such by the Board as necessary or desirable for administrative convenience,
654 satisfaction of federal tax or securities law requirements, or any similar purpose.

655 **Drafting note: Subsection A is deleted as unnecessary because of the title-wide**
656 **application of § 1-244, which states that the caption of a subtitle, chapter, or article serves**

657 as a short title citation. This changes the way this article is referred to; the existing article
658 name does not include "of 2011" as the short title does.

659 § ~~33.1-23.15~~ 33.2-XXX. Authorization of Notes.

660 The Board is hereby authorized, by and with the consent of the Governor, to issue,
661 pursuant to the provisions of the State Revenue Bond Act (§ ~~33.1-267~~ 33.2-XXX et seq.), in one
662 or more series from time to time revenue obligations of the Commonwealth to be designated
663 "Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes, Series
664 _____" (the Notes), provided that the aggregate principal amount outstanding at any time
665 shall not exceed the amount authorized pursuant to the second enactments of Chapters 1019 and
666 1044 of the Acts of Assembly of 2000 as amended by Chapter 655 of the Acts of Assembly of
667 2005, less any principal amounts outstanding from revenue obligations issued pursuant to those
668 enactments prior to July 1, 2011, and exclusive of (i) the amount of any revenue obligations that
669 may be issued to refund Notes issued under this Article or the revenue obligations issued under
670 those enactments in accordance with § ~~33.1-293~~, 33.2-XXX and (ii) any amounts issued for
671 financing expenses (including, ~~without limitation~~, any original issue discount).

672 **Drafting note: The phrase "without limitation" is removed based on § 1-218, which**
673 **states: "'Includes' means includes, but not limited to."**

674 § ~~33.1-23.16~~ 33.2-XXX. Use of proceeds of Notes.

675 A. The net proceeds of the Notes shall be used exclusively for the purpose of providing
676 funds, together with any other available funds, for paying the costs incurred or to be incurred for
677 construction or funding of such projects to be designated by the Board.

678 B. The proceeds of Notes, including any premium received on the sale thereof, shall be
679 made available by the Board to pay costs of the projects and, where appropriate, may be paid to
680 any authority, locality, commission, or other entity for the purposes of paying for costs of the
681 projects. The proceeds of Notes may be used together with any federal, local, or private funds
682 that may be made available for such purpose. The proceeds of Notes, together with any

683 investment earnings thereon, may at the discretion of the Board secure the payment of principal
684 or purchase price of and redemption premium, if any, and interest on Notes.

685 **Drafting note:**

686 § ~~33.1-23.17~~ 33.2-XXX. Details of Notes.

687 A. The terms and structure of each issue of Notes shall be determined by the Board,
688 subject to approval by the Treasury Board if required in accordance with § 2.2-2416. The Notes
689 of each issue shall be dated; shall be issued in a principal amount (subject to the limitation as to
690 amount outstanding at any one time set forth in § ~~33.1-23.15~~ 33.2-XXX); shall bear interest at
691 such rate or rates that may be fixed, adjustable, variable, or a combination thereof, and may be
692 determined by a formula or other method; shall mature at such time or times not exceeding 20
693 years after the issuance thereof; and may be made subject to purchase or redemption before
694 their maturity or maturities, at such price or prices and under such terms and conditions, all as
695 may be determined by the Board. The Board shall determine the form and series designations of
696 Notes, whether Notes are certificated or uncertificated, and fix the authorized denomination or
697 denominations of Notes and the place or places of payment of principal or purchase price of,
698 and redemption premium, if any, and interest on, Notes, which may be at the office of the State
699 Treasurer or any bank or trust company within or without the Commonwealth. The principal or
700 purchase price of, and redemption premium, if any, and interest on, Notes shall be made payable
701 in lawful money of the United States of America. Each issue of Notes may be issued under a
702 system of book entry for recording the ownership and transfer of ownership of rights to receive
703 payments of principal or purchase price of and redemption premium, if any, and interest on such
704 Notes. All Notes shall have and are hereby declared to have, as between successive holders, all
705 the qualities and incidents of negotiable instruments under the negotiable instruments law of the
706 Commonwealth.

707 B. The Board may sell Notes from time to time at public or private sale, by competitive
708 bidding, negotiated sale, or private placement, for such price or prices as it may determine to be
709 in the best interests of the Commonwealth.

710 **Drafting note:**

711 | § ~~33.1-23.18~~ 33.2-XXX. Form and manner of execution; signature of person ceasing to
712 be officer.

713 The Notes shall be signed on behalf of the Board by the Chairman or Vice-Chairman of
714 the Board, or shall bear the facsimile signature of such officer, and shall bear the official seal of
715 the Board, which shall be attested by the manual or facsimile signature of the secretary or
716 assistant secretary of the Board. In the event that Notes shall bear the facsimile signature of the
717 Chairman or Vice-Chairman of the Board, such Notes shall be signed by such administrative
718 assistant as the Chairman of the Board shall determine or by any registrar/paying agent that may
719 be designated by the Board. In case any officer whose signature or a facsimile of whose
720 signature appears on any Notes shall cease to be such officer before the delivery of such Notes,
721 such signature or facsimile signature nevertheless shall be valid and sufficient for all purposes
722 as if such officer had remained in office until such delivery.

723 **Drafting note:**

724 | § ~~33.1-23.19~~ 33.2-XXX. Authority to obtain GARVEE approval.

725 The Board is authorized to seek any necessary approvals for the issuance of Notes as
726 GARVEEs from the Federal Highway Administration and any successor or additional federal
727 agencies.

728 **Drafting note:**

729 | § ~~33.1-23.20~~ 33.2-XXX. Expenses.

730 All expenses incurred under this article or in connection with issuance of Notes shall be
731 paid from the proceeds of such Notes or from any available funds as the Board shall determine.

732 **Drafting note:**

733 | § ~~33.1-23.21~~ 33.2-XXX. Deposit of proceeds.

734 The proceeds of each series of Notes shall be placed by the State Treasurer in a special
735 fund in the state treasury or may be placed with a trustee in accordance with § ~~33.1-283~~ 33.2-
736 XXX and shall be disbursed only for the purpose for which such series shall be issued.

737 **Drafting note:**

738 § ~~33.1-23.22~~ 33.2-XXX. Other funds.

739 The Board is hereby authorized to receive any other funds that may be made available to
740 pay costs of the projects and, subject to appropriation by the General Assembly or allocation or
741 designation by the Board, as the case may be, to make available the same to the payment of the
742 principal or purchase price of, and redemption premium, if any, and interest on Notes authorized
743 hereby and to enter into the appropriate agreements to allow for those funds to be paid into the
744 state treasury, or to a trustee in accordance with § ~~33.1-283~~ 33.2-XXX to pay a part of the costs
745 of the projects or to pay principal or purchase price of, and redemption premium, if any, and
746 interest on Notes.

747 **Drafting note:**

748 § ~~33.1-23.23~~ 33.2-XXX. Application of project-specific reimbursements.

749 A. In accordance with Article X, Section 7 of the Constitution of Virginia, and § 2.2-
750 1802, all federal highway reimbursements are paid into the state treasury. In connection with
751 each series of Notes issued pursuant to this article, the Board shall establish a fund in
752 accordance with § ~~33.1-286~~ 33.2-XXX either in the state treasury or with a trustee in accordance
753 with § ~~33.1-283~~ 33.2-XXX, which secures and is used for the payment of such series of Notes to
754 the credit of which there shall be deposited such amounts, appropriated therefor by the General
755 Assembly, as are required to pay principal or purchase price of, and redemption premium, if
756 any, and interest on Notes, as and when due and payable, (i) first from the project-specific
757 reimbursements; (ii) then, at the discretion of the Board, to the extent required, from legally
758 available revenues of the Transportation Trust Fund; and (iii) then from such other funds, if any,
759 ~~which~~ that are designated by the General Assembly for such purpose.

760 B. The Board is authorized to provide that the pledge of federal highway
761 reimbursements and any other federal highway assistance received for all or any series of the
762 Notes will be subordinate to any prior pledge thereof to notes issued pursuant to subdivision ~~4d~~
763 XXX of § ~~33.1-269~~ 33.2-XXX and the second enactments of Chapters 1019 and 1044 of the

764 Acts of Assembly of 2000, as amended, and that the obligation to make transfers of federal
765 highway reimbursements and any other federal highway assistance received or other amounts
766 into any fund established under subsection A will be subordinate to the obligation to make any
767 required payments or deposits on or with respect to notes issued pursuant to subdivision ~~4d~~
768 ~~XXX~~ of § ~~33.1-269~~ ~~33.2-XXX~~ and the second enactments of Chapters 1019 and 1044 of the
769 Acts of Assembly of 2000, as amended.

770 **Drafting note:**

771 § ~~33.1-23-24~~ ~~33.2-XXX~~. Investment of proceeds and other amounts.

772 Notes proceeds and moneys in any reserve funds and sinking funds in respect of Notes
773 shall be invested by the State Treasurer in accordance with the provisions of general law relating
774 to the investment of such funds belonging to or in the control of the Commonwealth, or by a
775 trustee in accordance with § ~~33.1-283~~ ~~33.2-XXX~~.

776 **Drafting note:**

777 § ~~33.1-23-25~~ ~~33.2-XXX~~. Exemption from taxation.

778 The interest income from and any profit made on the sale of the Notes issued under the
779 provisions of this article shall at all times be free and exempt from taxation by the
780 Commonwealth and by any municipality, county, or other political subdivision ~~thereof~~.

781 **Drafting note:**

782 § ~~33.1-23-26~~ ~~33.2-XXX~~. Notes as eligible securities.

783 All Notes issued under the provisions of this article are hereby made securities in which
784 all persons and entities listed in § ~~33.1-280~~ ~~33.2-XXX~~ may properly and legally invest funds
785 under their control.

786 **Drafting note:**

787 #