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## SENATE BILL NO. 1297

Offered January 17, 2003

A BILL to amend and reenact §§ 33.1-23.1, 33.1-23.2, 33.1-23.3, 33.1-23.4, 33.1-23.5:1, and 33.1-41.1 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 48.2 of Title 15.2 sections numbered 15.2-4841 and 15.2-4842, relating to the establishment of the Northern Virginia Regional Transportation Program Bond Act of 2003; authorizing the Northern Virginia Transportation Authority to issue bonds in an aggregate principal amount not to exceed \$1,000,000,000 to finance all or a portion of the costs of the transportation projects included in the Northern Virginia Regional Transportation Program; providing that the Authority may enter into contracts or other agreements with any person or entity to provide for the construction, reconstruction, or operation of a transportation project or projects included in the Program; providing that from annual allocations to the Northern Virginia construction district \$50 million each fiscal year shall be allocated by the Commonwealth Transportation Board, and credited by the Comptroller, to the Northern Virginia Transportation Authority Fund; and providing that moneys in the Fund shall be used by the Authority solely to pay the costs to complete and implement the Program including, but not limited to, the costs to complete and implement the transportation projects included in the Program and the costs associated with issuing bonds and other obligations to complete and implement such transportation projects.

Patrons—Colgan, Byrne, Cuccinelli, Howell, Mims, O'Brien, Puller, Saslaw, Ticer and Whipple;  
Delegates: Albo, Hull, Parrish and Pollard

Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 33.1-23.1, 33.1-23.2, 33.1-23.3, 33.1-23.4, 33.1-23.5:1, and 33.1-41.1 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Chapter 48.2 of Title 15.2 sections numbered 15.2-4841 and 15.2-4842 as follows:

§ 15.2-4841. Responsibility for implementation of the Northern Virginia Regional Transportation Program Bond Act of 2003.

A. In addition to all other responsibilities under this chapter, the Authority shall complete and implement the projects included in the Northern Virginia Regional Transportation Program Bond Act of 2003, as passed by the 2003 Session of the General Assembly and enacted into law by the Governor, subject to (i) the provisions of this section and such Act, and (ii) it having sufficient funds to pay the costs to complete and implement a project or projects included in the Northern Virginia Regional Transportation Program as defined under such Act, or any part thereof, as such costs become due and payable.

B. Funds made available to the Authority to pay such costs shall include, but are not limited to (i) funds credited to the Northern Virginia Transportation Authority Fund pursuant to subsection D of § 33.1-23.1, (ii) the net proceeds of Authority bonds, including any premium received on the sale thereof, and (iii) any federal, local or private funds or any other moneys that may be made available for such purpose.

C. For purposes of completing and implementing such projects, the Authority is authorized to issue bonds in an aggregate principal amount not exceeding \$1 billion in accordance with the Northern Virginia Regional Transportation Program Bond Act of 2003 and to use all such powers provided under such act. Maintenance for such projects shall be under the sole jurisdiction of the Commonwealth Transportation Board.

D. To the extent not inconsistent with the provisions of this section or the Northern Virginia Regional Transportation Program Bond Act of 2003, all other provisions of this chapter are applicable for purposes of completing and implementing such projects.

E. The Northern Virginia Regional Transportation Program Bond Act of 2003 shall be deemed a regional transportation plan pursuant to subdivision 1 of § 15.2-4830.

§ 15.2-4842. Northern Virginia Transportation Authority Fund established.

A. There is hereby established in the state treasury a special nonreverting fund to be known as the Northern Virginia Transportation Authority Fund (the "Fund"). The Fund shall consist of required deposits of fiscal year allocations to the Northern Virginia construction district as provided in subsection D of § 33.1-23.1 and such moneys as may be appropriated by the General Assembly from time to time. Any moneys deposited to or remaining in the Fund during or at the end of each fiscal year or biennium, including interest thereon, shall not revert to the general fund but shall remain in the

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58 *Fund and be available for the purposes provided herein. Interest on all moneys in the Fund shall*  
59 *remain in the Fund and be credited to it. The Fund shall be managed by the Northern Virginia*  
60 *Transportation Authority. Expenditures and disbursements from the Fund shall be made by the State*  
61 *Treasurer on warrants issued by the Comptroller upon written request signed by the chairman of the*  
62 *Authority, or his designee.*

63 *B. Moneys in the Fund shall be used solely for paying the costs to complete and implement the*  
64 *Northern Virginia Regional Transportation Program as provided in the Northern Virginia Regional*  
65 *Transportation Program Bond Act of 2003, including, but not limited to, the costs to complete and*  
66 *implement the transportation projects included in the Program and the costs associated with issuing*  
67 *bonds and other obligations and with entering into contracts or other agreements as provided in such*  
68 *Act.*

69 § 33.1-23.1. Allocation of funds among highway systems.

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

76 B. After funds are set aside for administrative and general expenses and pursuant to other provisions  
77 in this title which provide for the disposition of funds prior to allocation for highway purposes, and after  
78 allocation is made pursuant to subsection A of this section, the Commonwealth Transportation Board  
79 shall allocate each year the remaining funds available for highway purposes, exclusive of federal funds  
80 for the interstate system, among the several highway systems for construction first pursuant to  
81 §§ 33.1-23.1:1 and 33.1-23.1:2 and then as follows:

82 1. Forty percent of the remaining funds exclusive of federal-aid matching funds for the interstate  
83 system shall be allocated to the primary system of state highways, including the arterial network, and in  
84 addition, an amount shall be allocated to the primary system as interstate matching funds as provided in  
85 subsection B of § 33.1-23.2.

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

88 3. Thirty percent of the remaining funds exclusive of federal-aid matching funds for the interstate  
89 system shall be allocated to the secondary system of state highways.

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

93 D. *Out of the amounts allocated to the Northern Virginia construction district pursuant to*  
94 *subdivisions B 1, B 2, and B 3 and subsection C, the first \$50 million available for allocation in each*  
95 *fiscal year after (i) allocation of interstate federal-aid matching funds pursuant to subsection B of*  
96 *§ 33.1-23.2 and (ii) allocations for the Northern Virginia construction district pursuant to the sixth*  
97 *enactments of Chapters 1019 and 1044 of the Acts of Assembly of 2000 shall be allocated by the*  
98 *Commonwealth Transportation Board, and credited by the Comptroller, to the Northern Virginia*  
99 *Transportation Authority Fund established under § 15.2-4842 to be used as provided therein. The Board*  
100 *shall work with the Comptroller to develop procedures to provide that such \$50 million shall be*  
101 *credited to the Northern Virginia Transportation Authority Fund as soon as practicable in each fiscal*  
102 *year.*

103 § 33.1-23.2. Allocation of construction funds for primary system and interstate match.

104 A. The Commonwealth Transportation Board shall allocate such funds as are available under  
105 § 33.1-23.1 B 1 to the primary system of state highways, including the arterial network, for construction  
106 and shall apportion such funds among the nine construction districts so that each construction district  
107 shall be allocated a share of such funds equal to the proportion that such construction district bears to  
108 the Commonwealth as a whole in terms of: vehicle-miles traveled on the primary system, primary road  
109 lane mileage and a primary road need factor which adjusts the weights in the allocation formula for the  
110 construction district with the largest under-allocation relative to primary needs, with vehicle-miles  
111 traveled weighted seventy percent, primary road lane mileage weighted twenty-five percent, and the  
112 primary road need factor weighted five percent.

113 B. Out of each district's total allocation of primary funds pursuant to paragraph 1 of subsection B of  
114 § 33.1-23.1, the Board shall allocate all needed interstate federal-aid matching funds, up to a maximum  
115 of twenty-five percent of the district's primary allocation. Any additional interstate federal-aid matching  
116 funds needed in a district shall be allocated by the Board from the Interstate Federal-Aid Matching Fund  
117 established in § 33.1-23.1:2.

118 C. Notwithstanding subsection A of this section, the Board may provide for exceptionally heavy  
119 expenditures for repairs or replacements made necessary by highway damage resulting from accidents,

severe weather conditions, acts of God or vandalism.

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

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

*E. Allocations under this section to the Northern Virginia construction district for the primary system of state highways, including the arterial network, shall be subject to the provisions of subsection D of § 33.1-23.1.*

§ 33.1-23.3. Allocation of construction funds for urban highways.

A. Such funds as are allocated to urban highways in (i) all towns that have more than 3,500 inhabitants according to the last preceding United States Census, (ii) all towns which, according to evidence satisfactory to the Commonwealth Transportation Board, have attained a population of more than 3,500 since the last preceding United States census, (iii) all incorporated towns which, on June 30, 1985, maintained certain streets under § 33.1-80 as then in effect, (iv) all cities regardless of their populations, and (v) the Towns of Wise, Lebanon, and Altavista pursuant to subdivision 2 of subsection B of § 33.1-23.1 shall be apportioned among the cities and towns of this Commonwealth by the Commonwealth Transportation Board in such a manner that each city or town to which these funds are allocable receives the same proportion 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 latest population estimate of the Center for Public Service, whichever is more recent. Whenever any city or town qualifies under this section for allocation of funds, such qualification shall continue to apply to such city or town notwithstanding any subsequent changes in population and shall cease to apply only upon the subsequent enactment by the General Assembly of a measure in which the intent is clearly stated. All allocations made prior to July 1, 2001, to cities and towns meeting the criteria above are hereby ratified, validated, and confirmed.

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

A portion of allocations made to any city or town under this section may be used on streets functionally classified as arterial for (i) the purchase of residue parcels or land resulting from highway construction or reconstruction projects where the purchase will result in necessary access control or land use control directly related to the purpose and need for the project, (ii) improvements to traffic safety, (iii) improvement to traffic flow and transportation system use, or any combination of (i), (ii), and (iii). Notwithstanding other provisions of this section, not more than one-third of the annual urban system highway funds apportioned to a city or town under this section may be used to reimburse the locality for debt service for bonds or eligible project costs incurred on approved projects included in the Six Year Improvement Program of the Commonwealth Transportation Board and the city's or town's capital improvement program. Such funds may also be used by the locality for debt service for bonds issued for, or eligible project costs incurred or to be incurred on, approved projects included, at the time such bonds are issued or such costs are incurred or are to be incurred, in the Six Year Improvement Program of the Commonwealth Transportation Board and the city's or town's capital improvement program. Any such funds so apportioned to and received by such city or town, or any portion thereof, may be deposited in a special fund that shall be established separate and apart from any other funds, general or special.

When the city or town presents a resolution requesting that a portion of its annual urban system apportionment be set aside for reimbursement for, or payment of, debt service under this section for a specific eligible project, the Commonwealth Transportation Board shall, subject to appropriation and allocation, set aside no more than one-third of the anticipated annual apportionment of urban system funding to the city or town for such purpose, provided such funds have not been previously committed

by the Board for projects contained in the Six Year Improvement Program.

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

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

C. The governing body of any city or town may, with the consent of the Commonwealth Transportation Board, expend urban system highway construction funds allocated annually to the city or town by the Commonwealth Transportation Board for the resurfacing, restoration, rehabilitation, reconstruction, and improvement of streets within the city or town for which the city receives maintenance payments under § 33.1-41.1.

*D. Allocations under this section for the cities and towns of the Northern Virginia construction district shall be subject to the provisions of subsection D of § 33.1-23.1.*

§ 33.1-23.4. Allocation of construction funds within secondary system.

A., B. [Repealed.]

C. Such funds as are allocated to the secondary system of state highways pursuant to paragraph 3 of subsection B of § 33.1-23.1 shall be apportioned among the several counties in the secondary system by the Commonwealth Transportation Board so that each such county shall be allocated a share of such funds equal to the proportion that such county bears to the Commonwealth as a whole in terms of area and population with population being weighted eighty percent, and area being weighted twenty percent. For the purpose of this section, "area" means the total land area of a county reduced by the area of any military reservations and state or national parks or forests within its boundaries and such other similar areas and facilities of five square miles in area or more, as may be determined by the Commonwealth Transportation Board.

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

D. Before allocating funds under subsection C of this section the Board may provide for exceptionally heavy expenditures for repairs or replacements made necessary by highway damage resulting from accidents, severe weather conditions, acts of God or vandalism.

*E. Allocations under this section for the counties of the Northern Virginia construction district shall be subject to the provisions of subsection D of § 33.1-23.1.*

§ 33.1-23.5:1. Funds for counties which have withdrawn or elect to withdraw from the secondary system of state highways.

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

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

*B. Payments under this section to any county having an area less than 100 square miles for construction from funds allocated pursuant to subdivision B 3 of § 33.1-23.1 shall be subject to the provisions of subsection D of § 33.1-23.1.*

§ 33.1-41.1. Payments to cities and certain towns for maintenance of certain highways.

The Commonwealth Transportation Commissioner, subject to the approval of the Commonwealth Transportation Board, shall make payments for maintenance, construction, or reconstruction of highways,

as hereinafter provided, to all cities and towns eligible for allocation of construction funds for urban highways under § 33.1-23.3. Such payments, however, shall only be made if those highways functionally classified as principal and minor arterial roads are maintained to a standard satisfactory to the Department of Transportation. Whenever any city or town qualifies under this section for allocation of funds, such qualification shall continue to apply to such city or town regardless of any subsequent change in population and shall cease to apply only when so specifically provided by an act of the General Assembly. All allocations made prior to July 1, 2001, to cities and towns meeting the criteria of the foregoing provisions of this section are hereby confirmed.

No payments shall be made by the Commissioner to any such city or town unless the portion of the highway for which such payment is made either (a) has (i) an unrestricted right-of-way at least fifty feet wide and (ii) a hard-surface width of at least thirty feet; or (b) has (i) an unrestricted right-of-way at least eighty feet wide, (ii) a hard-surface width of at least twenty-four feet, and (iii) approved engineering plans for the ultimate construction of an additional hard-surface width of at least twenty-four feet within the same right-of-way; or (c) (i) is a cul-de-sac, (ii) has an unrestricted right-of-way at least forty feet wide, and (iii) has a turnaround that meets applicable standards set by the Department of Transportation; or (d) either (i) has been paved and has constituted part of the primary or secondary system of state highways prior to annexation or incorporation or (ii) has constituted part of the secondary system of state highways prior to annexation or incorporation and is paved to a minimum width of sixteen feet subsequent to such annexation or incorporation and with the further exception of streets or portions thereof which have previously been maintained under the provisions of § 33.1-79 or § 33.1-82; or (e) was eligible for and receiving such payments under the laws of the Commonwealth in effect on June 30, 1985; or (f) is a street established prior to July 1, 1950, which has an unrestricted right-of-way width of not less than thirty feet and a hard-surface width of not less than sixteen feet; or (g) is a street functionally classified as a local street and constructed on or after January 1, 1996, which at the time of approval by the city or town met the criteria for pavement width and right-of-way of the then-current edition of the subdivision street requirements manual for secondary roads of the Department of Transportation (24 VAC 30-90-10 et seq.); (h) is a street previously eligible to receive street payments that is located in a city having a population of at least 200,000 but no more than 250,000 and is closed to public travel, pursuant to legislation enacted by the governing body of the city in which it is located, for public safety reasons, within the boundaries of a publicly funded housing development owned and operated by the local housing authority; or (i) is a local street, otherwise eligible, containing one or more physical protuberances placed within the right-of-way for the purpose of controlling the speed of traffic.

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

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

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

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

The city or town receiving this fund shall make annual reports, in such form as the Board may prescribe, accounting for all expenditures and certifying that none of the money received has been expended for other than maintenance, construction or reconstruction of the streets. Such reports shall be included in the scope of the annual audit of each municipality conducted by independent certified public accountants.

*B. Payments and allocations under this section to and for cities and towns of the Northern Virginia construction district shall be subject to the provisions of subsection D of § 33.1-23.1.*

**2. That the following is the Northern Virginia Regional Transportation Program Bond Act of**

**2003.**

§ 1. Title. This act shall be known and may be cited as the "Northern Virginia Regional Transportation Program Bond Act of 2003."

§ 2. For purposes of this act, the following definitions shall apply:

"Authority" means the Northern Virginia Transportation Authority as created under Chapter 48.2 of Title 15.2 of the Code of Virginia.

"Program" means the Northern Virginia Regional Transportation Program.

"Project" or "Projects" means a transportation project or projects included in the Program.

§ 3. The Program shall consist of the following Projects: VRE New Railcar Purchase; Metrorail Capital Improvements; Regional Transit Capital; Urban Road Improvements; Arlington County Secondary Road Improvements; Route 28 Improvements (Prince William County and Manassas Rail Crossing); Route 28 Improvements (Fairfax County and Loudoun County); Route 1 Improvements (Fairfax County); Route 1 Improvements (Prince William County); Route 7 Improvements (Loudoun County); Route 7 Improvements (Fairfax County); I-66/I-495 Interchange; I-66/Route 29/Gainesville Interchange; and Fairfax County Parkway Improvements.

§ 4. The Authority is hereby authorized to issue at one time or from time to time bonds in an aggregate principal amount not exceeding \$1,000,000,000 to finance all or a portion of the costs of the Projects and Program (exclusive of any obligations that may be issued to refund such bonds) plus an additional amount for issuance costs and other financing expenses (including without limitation, any original issue discount) (the "Bonds"). The net proceeds of the Bonds shall be used exclusively for the purpose of providing funds, together with any other available funds, for paying the costs incurred or to be incurred for construction or funding of all or a portion of the Projects and Program, including, but not limited to, environmental and engineering studies, rights-of-way acquisition, improvements to all modes of transportation, acquisition, construction and related improvements, and any financing costs and other financing expenses. Such costs may include the payment of interest on the Bonds for a period during construction and not exceeding one year after completion of construction of the Projects.

§ 5. The Projects, and the amount of Bonds authorized to be issued for each such Project are as follows:

Projects	Bond amount
VRE New Railcar Purchase	\$90,000,000
Metrorail Capital Improvements	200,000,000
Regional Transit Capital	100,000,000
Urban Road Improvements	35,000,000
Arlington County Secondary Road Improvements	15,000,000
Route 28 Improvements (Prince William County and Manassas Rail Crossing)	50,000,000
Route 28 Improvements (Fairfax County and Loudoun County)	50,000,000
Route 1 Improvements (Fairfax County)	50,000,000
Route 1 Improvements (Prince William County)	50,000,000
Route 7 Improvements (Loudoun County)	50,000,000
Route 7 Improvements (Fairfax County)	50,000,000
I-66/I-495 Interchange	100,000,000
I-66/Route 29/Gainesville Interchange	60,000,000

Fairfax County Parkway Improvements

100,000,000

Grand Total \$1,000,000,000

The Authority shall take such steps as are necessary for the Projects and Program to be constructed and implemented, subject to it having sufficient funds to pay the costs to complete and implement a Project or Projects, or any part thereof, as such costs become due and payable. Funds made available to the Authority to pay such costs shall include, but are not limited to, (i) funds credited to the Northern Virginia Transportation Authority Fund pursuant to subsection D of § 33.1-23.1 of the Code of Virginia, (ii) the net proceeds of Authority bonds, including any premium received on the sale thereof, and (iii) any federal, local or private funds or any other moneys that may be made available for such purpose.

Notwithstanding any other provision of law, the Authority may enter into a contract or other agreement with any federal, state or local agency, authority, or commission or any other person or entity to provide for the construction, reconstruction, or operation of a Project or Projects, or any part thereof. Maintenance for such projects shall be under the sole jurisdiction of the Commonwealth Transportation Board.

To the extent that the moneys credited to the Northern Virginia Transportation Authority Fund pursuant to subsection D of § 33.1-23.1 of the Code of Virginia exceed the amount needed to pay annual debt service on Bonds issued to support the Program Projects in any particular fiscal year, plus the amount needed in the fiscal year to pay all other costs to administer all debts or obligations issued pursuant to this act, the Authority shall annually allocate such funds as follows: (i) first, to pay for reasonable and proper expenses of the Authority, and (ii) any remaining funds shall be allocated to the Projects, as determined by the Authority.

§ 6. The Authority is hereby authorized to borrow money at such rate or rates through the execution and issuance of notes for the same (hereinafter "anticipation notes" or "BANs"), but only in the following circumstances and under the following conditions:

a. In anticipation of the sale of the Bonds, the issuance of which shall have been authorized and approved by the Authority, if the Authority shall deem it advisable to postpone the issuance of such Bonds; or

b. For the renewal of any anticipation notes (BANs) herein authorized.

§ 7. Application of Proceeds. Proceeds (including any premium) of the Bonds and any BANs (except the proceeds of (i) Bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds and (iii) refunding BANs) shall be deposited in a special capital outlay fund of the Authority and shall be disbursed only for the purpose for which the Bonds or any BANs have been issued. The proceeds of (a) Bonds the issuance of which has been anticipated by BANs, (b) refunding bonds and (c) refunding BANs and any funds provided by the General Assembly, or available from any other source, for the purpose, shall be used to pay such BANs, refunded bonds and refunded BANs.

§ 8. The Authority is hereby authorized to receive any other funds that may be made available to pay costs of the Projects and to make available the same to the payment of the principal or purchase price of, and redemption premium, if any, and interest on, the Bonds authorized hereby.

§ 9. The terms and structure of each issue of the Bonds shall be determined by the Authority. The Bonds of each issue shall be dated, shall be issued in a principal amount (subject to the limitation as to the aggregate principal amount set forth in § 4), shall bear interest at such rate or rates, which may be fixed, adjustable, variable or a combination thereof, and may be determined by a formula or other method, shall mature at such time or times not exceeding 35 years after the issuance thereof, and may be made subject to purchase or redemption before their maturity or maturities, at such price or prices and under such terms and conditions, all as may be determined by the Authority. The Authority shall determine the form of the Bonds, whether the Bonds are certificated or uncertificated, and fix the authorized denomination or denominations of the Bonds and the place or places of payment of principal or purchase price of, and redemption premium, if any, and interest on, the Bonds, which may be at the office of the Authority or any bank or trust company within or without the Commonwealth. The principal or purchase price of, and redemption premium, if any, and interest on, the Bonds shall be made payable in lawful money of the United States of America. Each issue of the Bonds may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments of principal or purchase price of and redemption premium, if any, and interest on such Bonds. All the Bonds shall have and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth.

The Authority may sell the Bonds from time to time at public or private sale, by competitive bidding, negotiated sale or private placement, for such price or prices as it may determine to be in the best interests of the Authority.

§ 10. The Bonds and BANs shall be signed on behalf of the Authority by the chairman or vice-chairman of the Authority, or shall bear the facsimile signature of such officer. In the event that the Bonds or BANs shall bear the facsimile signature of the chairman or vice-chairman of the Authority, they shall be signed by such administrative assistant as the chairman of the Authority shall determine or any registrar/paying agent that may be designated by the Authority. In case any officer whose signature or a facsimile of whose signature appears on any Bonds or BANs shall cease to be such officer before the delivery of such Bonds or BANs, such signature or facsimile signature nevertheless shall be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

§ 11. Refunding. The Authority is hereby authorized to sell and issue, at one time or from time to time, refunding bonds and BANs, to refund any or all of the Bonds and BANs, respectively, issued under this act. Refunding bonds or BANs may be issued in a principal amount up to the amount necessary to pay at maturity or redeem the Bonds and BANs to be refunded and pay all issuance costs and other financing expenses of the refunding. Such refunding bonds and BANs may be issued whether or not the Bonds or BANs to be refunded are then subject to redemption.

§ 12. Authorized Investments. Pending the application of the proceeds of the Bonds or BANs (including refunding bonds and BANs) to the purpose for which they have been authorized and the application of funds set aside for the purpose to the payment of Bonds or BANs, they may be invested by the Authority in legal investments under the laws of the Commonwealth for public funds and sinking funds, as the case may be. Whenever the Authority receives interest from the investment of the proceeds of Bonds or any BANs, such interest shall become a part of the principal of the Bonds or any BANs and shall be used in the same manner as required or permitted for principal of the Bonds or BANs.

The Authority may enter into contracts that the Authority determines to be necessary or appropriate to satisfy any obligation or investment requirement of the Authority, as represented by the Bonds, any security provided for their payment or the investment of their proceeds, in whole or in part with respect to the interest rates, cash flow or other matters desired by the Authority, which contracts may include without limitation, contracts commonly known as interest rate swap agreements, and futures or contracts providing for payments based on levels of, or changes in, interest rates. These contracts or arrangements may be entered into by the Authority in connection with, or incidental to, entering into, or maintaining any (i) agreement that secures Bonds or (ii) investment, or contracts providing for investments, otherwise authorized by law. These contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the Authority, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency, and any other criteria as may be deemed appropriate. Any money set aside and pledged to secure payments of Bonds or any of the contracts entered into pursuant to this paragraph, may be invested in legal investments under the laws of the Commonwealth for public funds and sinking funds, as the case may be, and may be pledged to and used to service any of the contracts or agreements entered into pursuant to this paragraph.

§ 13. The Bonds authorized under § 4 may be issued without obtaining the consent of any commission, office, department, board, council, bureau, agency or other persons or entities of the Commonwealth or of any political subdivision of the Commonwealth, and without any proceedings or the happening of conditions or things other than those proceedings, conditions or things that are specifically required under this act. The Authority may issue such types of Bonds as it may determine consistent with the provisions of §§ 4 and 5 of this act and subject to § 16 of this act, including, without limitation, Bonds payable as to principal and interest from any one or more of the following sources: (i) its revenues generally, including all amounts credited to the Northern Virginia Transportation Authority Fund pursuant to subsection D of § 33.1-23.1 of the Code of Virginia; (ii) proceeds from the sale of Bonds; (iii) payments under letters of credit, policies of bond insurance, guarantees or other credit enhancements; (iv) any reserve or sinking funds created to secure such payment; or (v) other available funds of the Authority.

§ 14. Security for Bonds and BANs. The proceeds of (i) Bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds and (iii) refunding BANs are hereby irrevocably pledged for the payment of principal of and interest and any premium on such BANs or Bonds or BANs to be refunded thereby.

Any Bond authorized under this act may be issued pursuant to or secured by a trust indenture or by a trust or other agreement with a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth, or other agent for bondholders, or any combination thereof. Any such trust indenture or other agreement may pledge or assign revenues, fees, rents and other charges to be received and may contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law. Such provisions may include covenants: (i) providing for the application of revenues and sale by the Authority, or any trustees under any trust indenture or agreement, of any property upon default, provided that in no case may any Project be subject to such sale; (ii) setting forth duties of the



Authority in relation to the acquisition, construction, maintenance, operation and insurance of any property of the Authority and the amounts of fees, rents and other charges to be charged, but such covenants may not provide fees, rents and other charges for use of any Project; (iii) providing for the collection of revenues, fees, rents and other charges, and the custody, safeguarding and application of all moneys of the Authority; (iv) providing for the creation of sinking funds and the creation and maintenance of reserves; and (v) setting forth conditions or limitations with respect to the incurrence of indebtedness or the granting of liens. Such trust indenture, trust or other agreement may set forth the rights and remedies of the bondholders and of the trustee or other agent for bondholders and may restrict the individual right of action by bondholders.

In addition, the Authority may grant security interests and other liens on its property, including its accounts receivable, to secure Bonds. All pledges of revenues of the Authority for payment of bonds shall be valid and binding from the time when the pledge is made, and the revenues pledged and thereafter received by the Authority shall be subject immediately to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. The Authority may also provide for the filing of any security interest or other lien, or any financing statement or other instrument, necessary or desirable to create, perfect or evidence any lien created pursuant to this act.

It shall be lawful for any bank or trust company within or without the Commonwealth to serve as depository of the proceeds of Bonds or of other revenues of the Authority and to furnish indemnifying bonds or to pledge such securities as may be required by the Authority.

§ 15. Except to the extent that the rights herein given may be restricted by such trust indenture or trust or other agreement, any holder of Bonds or coupons authorized under this act and the trustee or other agent for bondholders under any trust indenture or trust or other agreement may, either at law or in equity, by suit, action, injunction, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted under this act or under such trust indenture, trust or other agreement, and may enforce and compel the performance of all duties required under this act or by such trust indenture, trust or other agreement, with respect to such Bonds or coupons, to be performed by the Authority or by any officer or agent thereof, including the fixing, charging and collecting of revenues, fees, rents and other charges.

§ 16. No member, officer, employee or agent of the Authority or any person executing Bonds of the Authority authorized under this act shall be liable personally on the Bonds by reason of their issuance or execution. Bonds of the Authority authorized under this act shall not be a debt or pledge of the full faith and credit of the Commonwealth or any political subdivision thereof other than the Authority and shall so state on their face. Neither the Commonwealth nor any political subdivision thereof other than the Authority shall be obligated to pledge taxing power or appropriate or otherwise be liable for payment of such Bonds of the Authority. Bonds of the Authority authorized under this act are declared to be issued for an essential public and governmental purpose.

§ 17. Expenses. All expenses incurred under this act in connection with issuance of the Bonds shall be paid from the proceeds of such Bonds, or any refunding bonds or BANs, or from any other available funds as the Authority may determine.

§ 18. Bonds issued by the Authority under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies and associations, all national banks and trust companies, and savings institutions, including savings and loan associations, in the Commonwealth, and all executors, administrators, trustees and other fiduciaries, both individual or corporate, may properly and legally invest funds within their control. Such Bonds are hereby made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of Bonds or obligations is now or may hereafter be authorized by law.

§ 19. Exemption of interest from tax. The Bonds and BANs issued under the provisions of this act, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be exempt from taxation by the Commonwealth and by any political subdivision thereof.

§ 20. If any part of this act or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, such holding shall not affect the validity of the remainder of the provisions or applications of the act, which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

**3. That allocations and credits to the Northern Virginia Transportation Authority Fund pursuant to subsection D of § 33.1-23.1 shall end upon the following conditions being met: (i) completion and implementation of the transportation projects included in the Northern Virginia Regional Transportation Program as described in the second enactment of this act, (ii) final payment of the**

547 principal and interest on all bonds and other indebtedness issued pursuant to such second  
548 enactment, and (iii) final payment under contracts or other agreements between the Northern  
549 Virginia Transportation Authority and any federal, state or local agency, authority, or commission  
550 or any other person or entity to provide for the construction, reconstruction, or operation of a  
551 project or projects, or any part thereof, pursuant to such second enactment. The Authority shall  
552 notify the Commonwealth Transportation Board no later than 12 months prior to the date that  
553 the conditions described in clauses (i), (ii), and (ii) are projected to be satisfied. For the fiscal year  
554 that all conditions are projected to be satisfied, the amount allocated by the Board and to be  
555 credited by the Comptroller to the Northern Virginia Transportation Authority Fund pursuant to  
556 subsection D of § 33.1-23.1 shall equal the amount, not to exceed \$50 million, needed to satisfy  
557 such conditions.

558 4. That the Northern Virginia Transportation Authority shall report annually on (i) the allocation  
559 and expenditure of all moneys credited to the Northern Virginia Transportation Authority Fund  
560 pursuant to subsection D of § 33.1-23.1; (ii) use of these moneys to reduce traffic congestion in the  
561 localities included in the Northern Virginia construction district; and (iii) use of these moneys to  
562 improve air quality in such counties and cities and in the Washington Metropolitan Area. #