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**HOUSE BILL NO. 117**

Offered January 14, 2004

Prefiled December 22, 2003

*A BILL to amend and reenact §§ 33.1-268, 33.1-269, and 33.1-277 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 33.1-221.1:8, 33.1-221.1:9, 33.1-221.1:10, 58.1-2511, 58.1-2512, 58.1-2513, and 58.1-2514; to repeal the tenth enactment of Chapter 1019 of the Acts of Assembly of 2000 and the tenth enactment of Chapter 1044 of the Acts of Assembly of 2000; to dedicate certain insurance license tax revenues for transportation projects throughout the Commonwealth; and to authorize the Commonwealth Transportation Board to issue revenue bonds for the Northern Virginia Investment Program, the Eastern Virginia Investment Program, and the Western Virginia Investment Program in amounts not to exceed \$350 million for each such program, with such bond proceeds to be matched by private or local funds with certain conditions.*

Patrons—Marshall, R.G., Lingamfelter, Black, Callahan, Cole, McQuigg, Moran, Parrish and Rust; Senators: Cuccinelli, Mims, O'Brien and Puller

Referred to Committee on Finance

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

**1. That §§ 33.1-268, 33.1-269, and 33.1-277 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 33.1-221.1:8, 33.1-221.1:9, 33.1-221.1:10, 58.1-2511, 58.1-2512, 58.1-2513, and 58.1-2514 as follows:**

*§ 33.1-221.1:8. Northern Virginia Investment Program.*

*The General Assembly declares it to be in the public interest that the economic development needs and economic growth potential of Northern Virginia be addressed in part by a special transportation program to provide for the costs of constructing certain crucial transportation projects, which shall be known as the Northern Virginia Investment Program (the Program), including, without limitation, environmental and engineering studies, rights-of-way acquisition, construction, improvements to all modes of transportation, and financing costs. The Program consists of the following projects: the Dulles Corridor Transit, I-66 Improvements and Rail Extension, I-95/I-395 HOV/HOT Lane and Transit Improvements, I-495 HOV/HOT Lane and Transit Improvements, and VRE Railcars and Locomotives.*

*The Commonwealth Transportation Board is authorized to receive, dedicate or use funds and to issue bonds to fund the costs of the Program as may be specifically authorized by the General Assembly.*

*§ 33.1-221.1:9. Eastern Virginia Investment Program.*

*The General Assembly declares it to be in the public interest that the economic development needs and economic growth potential of Eastern Virginia be addressed in part by a special transportation program to provide for the costs of constructing certain crucial transportation projects, which shall be known as the Eastern Virginia Investment Program (the Program), including, without limitation, environmental and engineering studies, rights-of-way acquisition, construction, improvements to all modes of transportation, and financing costs. The Program consists of the following projects: the Hampton Roads Third Crossing, Midtown Tunnel/Martin Luther King Freeway extension and the parallel Midtown Tunnel, Southeastern Parkway and Greenbelt, I-64 Improvements, and Route 460 Improvements/Upgrade.*

*The Commonwealth Transportation Board is authorized to receive, dedicate or use funds and to issue bonds to fund the costs of the Program as may be specifically authorized by the General Assembly.*

*§ 33.1-221.1:10. Western Virginia Investment Program.*

*The General Assembly declares it to be in the public interest that the economic development needs and economic growth potential of Western Virginia be addressed in part by a special transportation program to provide for the costs of constructing a crucial transportation project, which shall be known as the Western Virginia Investment Program (the Program), including, without limitation, environmental and engineering studies, rights-of-way acquisition, construction, improvements to all modes of transportation, and financing costs. The Program consists of the following project: I-81 Improvements.*

*The Commonwealth Transportation Board is authorized to receive, dedicate or use funds and to issue bonds to fund the costs of the Program as may be specifically authorized by the General Assembly.*

*§ 33.1-268. Definitions.*

*As used in this article, the following words and terms shall have the following meanings:*

*(1) The word "Board" means the Commonwealth Transportation Board, or if the Commonwealth Transportation Board is abolished, any board, commission or officer succeeding to the principal functions thereof or upon whom the powers given by this article to the Board shall be given by law.*

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58 (2) The word "project" or "projects" means any one or more of the following:

59 (a) York River Bridges, extending from a point within the Town of Yorktown in York County, or  
60 within York County across the York River to Gloucester Point or some point in Gloucester County.

61 (b) Rappahannock River Bridge, extending from Greys Point, or its vicinity, in Middlesex County,  
62 across the Rappahannock River to a point in the vicinity of White Stone, in Lancaster County, or at  
63 some other feasible point in the general vicinity of the two respective points.

64 (c), (d) [Reserved.]

65 (e) James River Bridge, from a point at or near Jamestown, in James City County, across the James  
66 River to a point in Surry County.

67 (f), (g) [Reserved.]

68 (h) James River, Chuckatuck and Nansemond River Bridges, together with necessary connecting  
69 roads, in the Cities of Newport News and Suffolk and the County of Isle of Wight.

70 (i) [Reserved.]

71 (j) Hampton Roads Bridge, Tunnel, or Bridge and Tunnel System, extending from a point or points  
72 in the Cities of Newport News and Hampton on the northwest shore of Hampton Roads across Hampton  
73 Roads to a point or points in the City of Norfolk or Suffolk on the southeast shore of Hampton Roads.

74 (k) The Norfolk-Virginia Beach Highway, extending from a point in the vicinity of the intersection  
75 of Interstate Route 64 and Primary Route 58 at Norfolk to some feasible point between London Bridge  
76 and Primary Route 60.

77 (l) The Henrico-James River Bridge, extending from a point on the eastern shore of the James River  
78 in Henrico County to a point on the western shore, between Falling Creek and Bells Road interchanges  
79 of the Richmond-Petersburg Turnpike; however, the project shall be deemed to include all property,  
80 rights, easements and franchises relating to any of the foregoing projects and deemed necessary or  
81 convenient for the operation thereof and to include approaches thereto.

82 (m) The limited access highway between the Patrick Henry Airport area and the Newport News  
83 downtown area which generally runs parallel to tracks of the Chesapeake and Ohio Railroad.

84 (n) Dulles Access Road outer roadways, extending from a point on Route 7 in Loudoun County in  
85 an easterly direction to a point east of Route 123 on the Dulles Access Road in Fairfax County. These  
86 roadways are to be two or three lanes in each direction constructed adjacent to, and parallel to or  
87 extending west from, the Dulles Access Road.

88 (o), (p) [Repealed.]

89 (q) Subject to the limitations and approvals of § 33.1-279.1, any other highway for a primary  
90 highway transportation improvement district or transportation service district which the Board has agreed  
91 to finance under a contract with any such district or any other alternative mechanism for generation of  
92 local revenues for specific funding of a project satisfactory to the Commonwealth Transportation Board,  
93 the financing for which is to be secured by Transportation Trust Fund revenues under any appropriation  
94 made by the General Assembly for that purpose and payable first from revenues received under such  
95 contract or other local funding source, second, to the extent required, from funds appropriated and  
96 allocated, pursuant to the highway allocation formula as provided by law, to the highway construction  
97 district in which the project is located or to the county or counties in which the project is located and  
98 third, to the extent required from other legally available revenues of the Trust Fund and from any other  
99 available source of funds.

100 (r) U.S. 58 Corridor Development Program projects as defined in §§ 33.1-221.1:2 and 58.1-815.

101 (s) The Northern Virginia Transportation District Program as defined in § 33.1-221.1:3.

102 (t) Any program for highways or mass transit or transportation facilities, endorsed by the local  
103 jurisdiction or jurisdictions affected, which agree that certain distributions of state recordation taxes will  
104 be dedicated and used for the payment of any bonds or other obligations, including interest thereon, the  
105 proceeds of which were used to pay the cost of the program. Any such program shall be referred to as a  
106 "Transportation Improvement Program."

107 (u) Any project designated from time to time by the General Assembly financed in whole or part  
108 through the issuance of Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes.

109 (v) *Northern Virginia Investment Program projects as defined in § 33.1-221.1:8.*

110 (w) *Eastern Virginia Investment Program projects as defined in § 33.1-221.1:9.*

111 (x) *Western Virginia Investment Program projects as defined in § 33.1-221.1:10.*

112 (3) The word "undertaking" means all of the projects authorized to be acquired or constructed under  
113 this article.

114 (4) The word "improvements" means such repairs, replacements, additions and betterments of and to  
115 a project acquired by purchase or by condemnation as are deemed necessary to place it in a safe and  
116 efficient condition for the use of the public, if such repairs, replacements, additions and betterments are  
117 ordered prior to the sale of any bonds for the acquisition of such project.

118 (5) The term "cost of project" as applied to a project to be acquired by purchase or by  
119 condemnation, includes the purchase price or the amount of the award, cost of improvements, financing

charges, interest during any period of disuse before completion of improvements, cost of traffic estimates and of engineering and legal expenses, plans, specifications and surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of the enterprises, administrative expenses and such other expenses as may be necessary or incident to the financing herein authorized and the acquisition of the project and the placing of the project in operation.

(6) The term "cost of project" as applied to a project to be constructed, embraces the cost of construction, the cost of all lands, properties, rights, easements and franchises acquired which are deemed necessary for such construction, the cost of acquiring by purchase or condemnation any ferry which is deemed by the Board to be competitive with any bridge to be constructed, the cost of all machinery and equipment, financing charges, interest prior to and during construction and for one year after completion of construction, cost of traffic estimates and of engineering data, engineering and legal expenses, cost of plans, specifications and surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense and such other expenses as may be necessary or incident to the financing herein authorized, the construction of the project, the placing of the project in operation and the condemnation of property necessary for such construction and operation.

(7) The word "owner" includes all individuals, incorporated companies, copartnerships, societies or associations having any title or interest in any property rights, easements or franchises authorized to be acquired by this article.

(8) [Repealed.]

(9) The words "revenue" and "revenues" include tolls and any other moneys received or pledged by the Board pursuant to this article, including, without limitation, legally available Transportation Trust Fund revenues and any federal highway reimbursements and any other federal highway assistance received from time to time by the Commonwealth.

(10) The terms "toll project" and "toll projects" mean projects financed in whole or in part through the issuance of revenue bonds which are secured by toll revenues generated by such project or projects.

§ 33.1-269. General powers of Board.

The Commonwealth Transportation Board may, subject to the provisions of this article:

1. Acquire by purchase or by condemnation, construct, improve, operate and maintain any one or more of the projects mentioned and included in the undertaking defined in this article;

2. Issue revenue bonds of the Commonwealth, to be known and designated as "Commonwealth of Virginia Toll Revenue Bonds," payable from earnings and from any other available sources of funds, to pay the cost of such projects;

3. Subject to the limitations and approvals of § 33.1-279.1, issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Contract Revenue Bonds," secured by Transportation Trust Fund revenues under a payment agreement between the Board and the Treasury Board, subject to their appropriation by the General Assembly and payable first from revenues received pursuant to contracts with a primary highway transportation improvement district or transportation service district or other local revenue sources for which specific funding of any such bonds may be authorized by law; second, to the extent required, from funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the county or counties in which the project or projects to be financed are located; and third, to the extent required, from other legally available revenues of the Trust Fund and from any other available source of funds;

4. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Revenue Bonds," secured (i) by revenues received from the U.S. Route 58 Corridor Development Fund, subject to their appropriation by the General Assembly, (ii) to the extent required, from revenues legally available from the Transportation Trust Fund and (iii) to the extent required, from any other legally available funds which have been appropriated by the General Assembly;

4a. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Revenue Bonds," secured, subject to their appropriation by the General Assembly, first from (i) revenues received from the Northern Virginia Transportation District Fund, (ii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the city or county in which the project or projects to be financed are located, (iii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iv) such other funds which may be appropriated by the General Assembly;

4b. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Program Revenue Bonds" secured, subject to their appropriation by the General Assembly, first from (i) any revenues received from any Set-aside Fund established by the General Assembly pursuant to § 58.1-816.1, (ii) to the extent required, revenues received pursuant to any

contract with a local jurisdiction or any alternative mechanism for generation of local revenues for specific funding of a project satisfactory to the Commonwealth Transportation Board, (iii) to the extent required, funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the city or county in which the project or projects to be financed are located, (iv) to the extent required, legally available revenues of the Transportation Trust Fund, and (v) such other funds which may be appropriated by the General Assembly. No bonds for any project or projects shall be issued under the authority of this subsection unless such project or projects are specifically included in a bill or resolution passed by the General Assembly;

4c. Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Program Revenue Bonds" secured, subject to their appropriation by the General Assembly, first from (i) any revenues received from the Commonwealth Transit Capital Fund established by the General Assembly pursuant to subdivision A 4 g of § 58.1-638, (ii) to the extent required, legally available revenues of the Transportation Trust Fund, and (iii) such other funds which may be appropriated by the General Assembly. No bonds for any project or projects shall be issued under the authority of this subsection unless such project or projects are specifically included in a bill or resolution passed by the General Assembly;

4d. Issue revenue bonds of the Commonwealth from time to time to be known and designated as "Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes" secured, subject to their appropriation by the General Assembly, (i) first from any federal highway reimbursements and any other federal highway assistance received from time to time by the Commonwealth, (ii) then, at the discretion of the Board, to the extent required, from legally available revenues of the Transportation Trust Fund, and (iii) then from such other funds, if any, which are designated by the General Assembly for such purpose;

4e. *Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Revenue Bonds," secured (i) by revenues received from the Northern Virginia Investment Fund, (ii) to the extent required, from revenues legally available from the Transportation Trust Fund, and (iii) to the extent required, from any other legally available funds;*

4f. *Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Revenue Bonds," secured (i) by revenues received from the Eastern Virginia Investment Fund, (ii) to the extent required, from revenues legally available from the Transportation Trust Fund, and (iii) to the extent required, from any other legally available funds;*

4g. *Issue revenue bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia Transportation Revenue Bonds," secured (i) by revenues received from the Western Virginia Investment Fund, (ii) to the extent required, from revenues legally available from the Transportation Trust Fund, and (iii) to the extent required, from any other legally available funds;*

5. Fix and collect tolls and other charges for the use of such projects or to refinance the cost of such projects;

6. Construct grade separations at intersections of any projects with public highways, streets or other public ways or places and change and adjust the lines and grades thereof so as to accommodate the same to the design of such grade separations, the cost of such grade separations and any damage incurred in changing and adjusting the lines and grades of such highways, streets, ways and places to be ascertained and paid by the Board as a part of the cost of the project;

7. Vacate or change the location of any portion of any public highway, street or other public way or place and reconstruct the same at such new location as the Board deems most favorable for the project and of substantially the same type and in as good condition as the original highway, streets, way or place, the cost of such reconstruction and any damage incurred in vacating or changing the location thereof to be ascertained and paid by the Board as a part of the cost of the project. Any public highway, street or other public way or place vacated or relocated by the Board shall be vacated or relocated in the manner provided by law for the vacation or relocation of public roads and any damages awarded on account thereof may be paid by the Board as a part of the cost of the project;

8. Make reasonable regulations for the installation, construction, maintenance, repair, renewal and relocation of pipes, mains, sewers, conduits, cables, wires, towers, poles and other equipment and appliances herein called "public utility facilities," of the Commonwealth and of any municipality, county, or other political subdivision, public utility or public service corporation owning or operating the same in, on, along, over or under the project. Whenever the Board determines that it is necessary that any such public utility facilities should be relocated or removed, the Commonwealth or such municipality, county, political subdivision, public utility or public service corporation shall relocate or remove the same in accordance with the order of the Board. The cost and expense of such relocation or removal, including the cost of installing such public utility facilities in a new location or locations, and the cost of any lands or any rights or interests in lands, and any other rights acquired to accomplish such relocation or removal shall be ascertained by the Board.

On any toll project, the Board shall pay the cost and expense of relocation or removal as a part of the cost of the project for those public utility facilities owned or operated by the Commonwealth or such municipality, county, political subdivision, public utility or public service corporation. On all other projects, under this article, the Board shall pay the cost and expense of relocation or removal as a part of the cost of the project for those public utility facilities owned or operated by the Commonwealth or such municipality, county, or political subdivision. The Commonwealth or such municipality, county, political subdivision, public utility or public service corporation may maintain and operate such public utility facilities with the necessary appurtenances, in the new location or locations, for as long a period and upon the same terms and conditions as it had the right to maintain and operate such public utility facilities in their former location or locations;

9. Acquire by the exercise of the power of eminent domain any lands, property, rights, rights-of-way, franchises, easements and other property, including public lands, parks, playgrounds, reservations, highways or parkways, or parts thereof or rights therein, of any municipality, county or other political subdivision, deemed necessary or convenient for the construction or the efficient operation of the project or necessary in the restoration, replacement or relocation of public or private property damaged or destroyed.

The cost of such projects shall be paid solely from the proceeds of Commonwealth of Virginia Toll or Transportation Contract Revenue Bonds or a combination thereof or from such proceeds and from any grant or contribution which may be made thereto pursuant to the provisions of this article; and

10. Notwithstanding any provision of this article to the contrary, the Board shall be authorized to exercise the powers conferred herein, in addition to its general powers to acquire rights-of-way and to construct, operate and maintain state highways, with respect to any project which the General Assembly has authorized or may hereafter authorize to be financed in whole or in part through the issuance of bonds of the Commonwealth pursuant to the provisions of Section 9 (c) of Article X of the Constitution of Virginia.

§ 33.1-277. Credit of Commonwealth not pledged.

A. Commonwealth of Virginia Toll Revenue Bonds issued under the provisions of this article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds herein provided therefor from tolls and revenues, from bond proceeds or earnings thereon and from any other available sources of funds. All such bonds shall state on their face that the Commonwealth of Virginia is not obligated to pay the same or the interest thereon except from the special fund provided therefor from tolls and revenues under this article, from bond proceeds or earnings thereon and from any other available sources of funds and that the faith and credit of the Commonwealth are not pledged to the payment of the principal or interest of such bonds. The issuance of such revenue bonds under the provisions of this article shall not directly or indirectly or contingently obligate the Commonwealth to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment, other than appropriate available funds derived as revenues from tolls and charges under this article or derived from bond proceeds or earnings thereon and from any other available sources of funds.

B. Commonwealth of Virginia Transportation Contract Revenue Bonds issued under the provisions of this article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds herein provided therefor (i) from revenues received pursuant to contracts with a primary highway transportation district or transportation service district or any other alternative mechanism for generation of local revenues for specific funding of a project satisfactory to the Commonwealth Transportation Board, (ii) to the extent required, from funds appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the highway construction district in which the project or projects to be financed are located or to the county or counties in which such project or projects are located, (iii) from bond proceeds or earnings thereon, (iv) to the extent required, from other legally available revenues of the Trust Fund, and (v) from any other available source of funds. All such bonds shall state on their face that the Commonwealth of Virginia is not obligated to pay the same or the interest thereon except from revenues in clauses (i) and (iii) hereof and that the faith and credit of the Commonwealth are not pledged to the payment of the principal and interest of such bonds. The issuance of such revenue bonds under the provisions of this article shall not directly or indirectly or contingently obligate the Commonwealth to levy or to pledge any form of taxation whatever or to make any appropriation for their payment, other than to appropriate available funds derived as revenues under this article from the sources set forth in clauses (i) and (iii) hereof. Nothing in this article shall be construed to obligate the General Assembly to make any appropriation of the funds set forth in clause (ii) or (iv) hereof for payment of such bonds.

C. Commonwealth of Virginia Transportation Revenue Bonds issued under the provisions of this article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the full

304 faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds herein  
305 provided therefor (i) from revenues received from the U.S. Route 58 Corridor Development Fund,  
306 subject to their appropriation by the General Assembly, (ii) to the extent required, from revenues legally  
307 available from the Transportation Trust Fund and (iii) to the extent required, from any other legally  
308 available funds which shall have been appropriated by the General Assembly.

309 D. Commonwealth of Virginia Transportation Revenue Bonds issued under this article for Category 1  
310 projects as provided in subdivision (2) (s) of § 33.1-268 shall not be deemed to constitute a debt of the  
311 Commonwealth of Virginia or a pledge of the faith and credit of the Commonwealth. Such bonds shall  
312 be payable solely, subject to their appropriation by the General Assembly, first from (i) revenues  
313 received from the Northern Virginia Transportation District Fund, (ii) to the extent required, funds  
314 appropriated and allocated, pursuant to the highway allocation formula as provided by law, to the  
315 highway construction district in which the project or projects to be financed are located or to the city or  
316 county in which the project or projects to be financed are located, (iii) to the extent required, legally  
317 available revenues of the Transportation Trust Fund, and (iv) such other funds which may be  
318 appropriated by the General Assembly.

319 E. Commonwealth of Virginia Transportation Program Revenue Bonds issued under this article for  
320 projects defined in subdivision (2) (t) of § 33.1-268 shall not be deemed to constitute a debt of the  
321 Commonwealth or a pledge of the faith and credit of the Commonwealth. Such bonds shall be payable  
322 solely, subject to their appropriation by the General Assembly, first from (i) any revenues received from  
323 any Set-aside Fund established by the General Assembly pursuant to § 58.1-816.1, (ii) to the extent  
324 required, revenues received pursuant to any contract with a local jurisdiction or any alternative  
325 mechanism for generation of local revenues for specific funding of a project satisfactory to the  
326 Commonwealth Transportation Board, (iii) to the extent required, funds appropriated and allocated,  
327 pursuant to the highway allocation formula as provided by law, to the highway construction district in  
328 which the project or projects to be financed are located or to the city or county in which the project or  
329 projects to be financed are located, (iv) to the extent required, legally available revenues from the  
330 Transportation Trust Fund, and (v) such other funds which may be appropriated by the General  
331 Assembly.

332 F. Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes issued under this  
333 article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the full  
334 faith and credit of the Commonwealth, but such obligations shall be payable solely, subject to  
335 appropriation by the General Assembly, (i) first from any federal highway reimbursements and any other  
336 federal highway assistance received from time to time by the Commonwealth, (ii) then, at the discretion  
337 of the Board, to the extent required, from legally available revenues of the Transportation Trust Fund,  
338 and (iii) then, from such other funds, if any, which are designated by the General Assembly for such  
339 purpose.

340 G. *Commonwealth of Virginia Transportation Revenue Bonds issued under the provisions of this*  
341 *article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the full*  
342 *faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds herein*  
343 *provided therefor (i) by revenues received from the Northern Virginia Investment Fund, (ii) to the extent*  
344 *required, from revenues legally available from the Transportation Trust Fund, and (iii) to the extent*  
345 *required, from any other legally available funds.*

346 H. *Commonwealth of Virginia Transportation Revenue Bonds issued under the provisions of this*  
347 *article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the full*  
348 *faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds herein*  
349 *provided therefor (i) by revenues received from the Eastern Virginia Investment Fund, (ii) to the extent*  
350 *required, from revenues legally available from the Transportation Trust Fund, and (iii) to the extent*  
351 *required, from any other legally available funds.*

352 I. *Commonwealth of Virginia Transportation Revenue Bonds issued under the provisions of this*  
353 *article shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the full*  
354 *faith and credit of the Commonwealth, but such bonds shall be payable solely from the funds herein*  
355 *provided therefor (i) by revenues received from the Western Virginia Investment Fund, (ii) to the extent*  
356 *required, from revenues legally available from the Transportation Trust Fund, and (iii) to the extent*  
357 *required, from any other legally available funds.*

358 § 58.1-2511. *Distribution of certain revenues.*

359 A. *Beginning July 1, 2004, one-third of all insurance license tax revenues paid to the State*  
360 *Corporation Commission pursuant to this chapter shall be deposited in a special nonreverting fund that*  
361 *is hereby created in the Department of the Treasury and that shall be a part of the Transportation Trust*  
362 *Fund and that shall be titled the "Commonwealth Investment Fund."*

363 B. *Except as provided in subsection C, the Commonwealth Transportation Board shall allocate and*  
364 *distribute the revenues in the fund to each highway construction district for primary transportation*  
365 *projects, based upon the proportion of the population of the Commonwealth residing in each such*

district as such population is determined by the most recent estimates by the Center for Public Service of the University of Virginia.

C. All revenues that otherwise would be distributed pursuant to subsection B (i) to the Northern Virginia Construction District shall instead be deposited into the Northern Virginia Investment Fund created pursuant to § 58.1-2512; (ii) to the Hampton Roads Construction District shall instead be deposited into the Eastern Virginia Investment Fund created pursuant to § 58.1-2513; (iii) to the Bristol, Salem, and Staunton Construction District shall instead be deposited into the Western Virginia Investment Fund created pursuant to § 58.1-2514.

§ 58.1-2512. Northern Virginia Investment Fund.

There is hereby created in the Department of the Treasury a special nonreverting fund that shall be a part of the Transportation Trust Fund and that shall be known as the Northern Virginia Investment Fund. The Fund shall consist of deposits pursuant to subsection C of § 58.1-2511 and shall include such other funds as may be appropriated by the General Assembly from time to time, and designated for this Fund and all interest, dividends, and appreciation that may accrue thereto. Any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund, but shall remain in the Fund. Allocations from this Fund may be paid to any authority, locality, or commission for the purposes specified in § 33.1-221.1:8.

§ 58.1-2513. Eastern Virginia Investment Fund.

There is hereby created in the Department of the Treasury a special nonreverting fund that shall be a part of the Transportation Trust Fund and that shall be known as the Eastern Virginia Investment Fund. The Fund shall consist of deposits pursuant to subsection C of § 58.1-2511 and shall include such other funds as may be appropriated by the General Assembly from time to time, and designated for this Fund and all interest, dividends, and appreciation that may accrue thereto. Any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund, but shall remain in the Fund. Allocations from this Fund may be paid to any authority, locality, or commission for the purposes specified in § 33.1-221.1:9.

§ 58.1-2514. Western Virginia Investment Fund.

There is hereby created in the Department of the Treasury a special nonreverting fund that shall be a part of the Transportation Trust Fund and that shall be known as the Western Virginia Investment Fund. The Fund shall consist of deposits pursuant to subsection C of § 58.1-2511 and shall include such other funds as may be appropriated by the General Assembly from time to time, and designated for this Fund and all interest, dividends, and appreciation that may accrue thereto. Any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund, but shall remain in the Fund. Allocations from this Fund may be paid to any authority, locality, or commission for the purposes specified in § 33.1-221.1:10.

## **2. That the following is the Northern Virginia Private Investment Inducement Act of 2004.**

§ 1. Title. This act shall be known and may be cited as the "Northern Virginia Private Investment Inducement Act of 2004."

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

"Board" means the Commonwealth Transportation Board.

"Northern Virginia Investment Program" means the same as that term is defined in § 33.1-221.1:8 of the Code of Virginia.

"Program" means the Northern Virginia Investment Program established pursuant to § 33.1-221.1:8 of the Code of Virginia.

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

§ 3. The Commonwealth Transportation Board is hereby authorized to issue at one time or from time to time bonds in an aggregate principal amount not exceeding \$350 million to finance no more than one-half of the total costs of the projects set forth in § 4 (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 for paying no more than one-half of the costs incurred or to be incurred for construction or funding of the projects set forth in this section § 4, 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. No proceeds of the Bonds shall be used for any project unless the Board has entered into a contract or other agreement whereby private entities, localities, or both, are obligated to pay an amount equal to or greater than the amount the Board will pay for the project, unless the Board makes a formal determination that (i) sufficient private funds or local funds are not practically available, or (ii) sufficient private or local funds will be available within six years.

§ 4. The projects, and the amount of Bonds authorized to be issued for each such project are as follows:

Projects	Bond amount
Dulles Corridor Transit	\$80,000,000
I-66 Improvements and Rail Extension	\$80,000,000
I-95/I-395 HOV/HOT Lane and Transit Improvements	\$80,000,000
I-495 HOV/HOT Lane and Transit Improvements	\$80,000,000
VRE Railcars and Locomotives	\$30,000,000

§ 5. The Board 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 for the construction of a Project or Projects, or any part thereof, as such costs become due and payable. Funds made available by the Board to pay such costs may include, but are not limited to, the net proceeds of Bonds, including any premium received on the sale thereof, and any federal, local, or private funds or any other moneys that may be made available for such purpose.

The Board 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, operation, or maintenance of a Project or Projects, or any part thereof.

§ 6. The Board 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 Board, if the Board 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 Board 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 Board 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 Board. 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 § 3), 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 Board. The Board 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 Board 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 Board 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 Commonwealth.

§ 10. The Bonds and BANs shall be signed on behalf of the Board by the chairman or vice-chairman of the Board, 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 Board, they shall be signed by such administrative assistant as the chairman of the Board shall determine or any registrar/paying agent that may be designated by the Board. 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 Board 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 Board in legal investments under the laws of the Commonwealth for public funds and sinking funds, as the case may be. Whenever the Board 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 Board may enter into contracts that the Board determines to be necessary or appropriate to satisfy any obligation or investment requirement of the Board, 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 Board, 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 Board 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 Board, 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 § 3 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 Board may issue such types of Bonds as it may determine consistent with the provisions of §§ 3 and 4 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) revenues from the Northern Virginia Investment Fund; (ii) to the extent required, from revenues legally available from the Transportation Trust Fund; (iii) to the extent required, from any other legally available funds; (iv) proceeds from the sale of Bonds; (v) payments under letters of credit, policies of bond insurance, guarantees, or other credit enhancements; (vi) any reserve or sinking funds created to secure such payment; or (vii) other available funds of the Board.

§ 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

548 law. Such provisions may include covenants: (i) providing for the application of revenues and sale by  
549 the Board, or any trustees under any trust indenture or agreement, of any property upon default,  
550 provided that in no case may any Project be subject to such sale; (ii) setting forth duties of the Board  
551 in relation to the acquisition, construction, maintenance, operation, and insurance of any property of the  
552 Board and the amounts of fees, rents, and other charges to be charged, but such covenants may not  
553 provide fees, rents, and other charges for use of any Project; (iii) providing for the collection of  
554 revenues, fees, rents, and other charges, and the custody, safeguarding, and application of all moneys of  
555 the Board; (iv) providing for the creation of sinking funds and the creation and maintenance of  
556 reserves; and (v) setting forth conditions or limitations with respect to the incurrence of indebtedness or  
557 the granting of liens. Such trust indenture, trust, or other agreement may set forth the rights and  
558 remedies of the bondholders and of the trustee or other agent for bondholders and may restrict the  
559 individual right of action by bondholders.

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

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

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

581 § 16. No member, officer, employee, or agent of the Board or any person executing Bonds of the  
582 Board authorized under this act shall be liable personally on the Bonds by reason of their issuance or  
583 execution. Bonds of the Board authorized under this act shall not be a debt or pledge of the full faith  
584 and credit of the Commonwealth or any political subdivision thereof other than the Board and shall so  
585 state on their face. Neither the Commonwealth nor any political subdivision thereof other than the  
586 Board shall be obligated to pledge taxing power or make appropriations or otherwise be liable for  
587 payment of such Bonds of the Board, nor shall such Bonds be payable out of any funds or properties of  
588 the Commonwealth or any political subdivision thereof other than those of the Board. Bonds of the  
589 Board authorized under this act are declared to be issued for an essential public and governmental  
590 purpose.

591 § 17. Expenses. All expenses incurred under this act in connection with issuance of the Bonds shall  
592 be paid from the proceeds of such Bonds, or any refunding bonds or BANs, or from any other funds  
593 made available to the Board.

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

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

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

**3. That the following is the "Eastern Virginia Regional Private Investment Inducement Act of 2004."**

§ 1. Title. This act shall be known and may be cited as the "Eastern Virginia Private Investment Inducement Act of 2004."

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

"Board" means the Commonwealth Transportation Board.

"Eastern Virginia Investment Program" means the same as that term is defined in § 33.1-221.1:9 of the Code of Virginia.

"Program" means the Eastern Virginia Investment Program established pursuant to § 33.1-221.1:9 of the Code of Virginia.

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

§ 3. The Commonwealth Transportation Board is hereby authorized to issue at one time or from time to time bonds in an aggregate principal amount not exceeding \$350 million to finance no more than one-half of the total costs of the projects set forth in § 4 (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 for paying no more than one-half of the costs incurred or to be incurred for construction or funding of the projects set forth in this section § 4, 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. No proceeds of the bonds shall be used for any project unless the Board has entered into a contract or other agreement whereby private entities, localities, or both, are obligated to pay an amount equal to or greater than the amount the Board will pay for the project, unless the Board makes a formal determination that (i) sufficient private funds or local funds are not practically available, or (ii) sufficient private or local funds will be available within six years.

§ 4. The projects, and the amount of Bonds authorized to be issued for each such project are as follows:

Projects	Bond amount
Hampton Roads Third Crossing	\$85,000,000
Southeastern Southeastern Parkway and Greenbelt	\$85,000,000
Midtown Tunnel/Martin Luther King Freeway	
extension and the parallel Midtown Tunnel.....	\$10,000,000
I-64 Improvements	\$85,000,000
Route 460 Improvements/Upgrade	\$85,000,000

§ 5. The Board 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 for the construction of a Project or Projects, or any part thereof, as such costs become due and payable. Funds made available by the Board to pay such costs may include, but are not limited to, the net proceeds of Bonds, including any premium received on the sale thereof, and any federal, local, or private funds or any other moneys that may be made available for such purpose.

The Board 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, operation, or maintenance of a Project or Projects, or any part thereof.

§ 6. The Board 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 Board, if the Board 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 Board 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 Board 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 Board. 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 § 3), 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 Board. The Board 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 Board 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 Board 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 Commonwealth.

§ 10. The Bonds and BANs shall be signed on behalf of the Board by the chairman or vice-chairman of the Board, 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 Board, they shall be signed by such administrative assistant as the chairman of the Board shall determine or any registrar/paying agent that may be designated by the Board. 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 Board 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 Board in legal investments under the laws of the Commonwealth for public funds and sinking funds, as the case may be. Whenever the Board 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 Board may enter into contracts which the Board determines to be necessary or appropriate to satisfy any obligation or investment requirement of the Board, 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 Board, 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 Board 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 Board, 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 § 3 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 Board may issue such types of Bonds as it may determine consistent with the provisions of §§ 3 and 4 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) revenues from the Eastern Virginia Investment Fund; (ii) to the extent required, from revenues legally available from the Transportation Trust Fund; (iii) to the extent required, from any other legally available funds;

(iv) proceeds from the sale of Bonds; (v) payments under letters of credit, policies of bond insurance, guarantees, or other credit enhancements; (vi) any reserve or sinking funds created to secure such payment; or (vii) other available funds of the Board.

§ 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 Board, 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 Board in relation to the acquisition, construction, maintenance, operation, and insurance of any property of the Board 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 Board; (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 Board may grant security interests and other liens on its property, including its accounts receivable, to secure Bonds. All pledges of revenues of the Board 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 Board 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 Board, irrespective of whether such parties have notice thereof. The Board 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 Board and to furnish indemnifying bonds or to pledge such securities as may be required by the Board.

§ 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 Board or by any officer or agent thereof, including the fixing, charging, and collecting

793 of revenues, fees, rents and other charges.

794 § 16. No member, officer, employee, or agent of the Board or any person executing Bonds of the  
795 Board authorized under this act shall be liable personally on the Bonds by reason of their issuance or  
796 execution. Bonds of the Board authorized under this act shall not be a debt or pledge of the full faith  
797 and credit of the Commonwealth or any political subdivision thereof other than the Board and shall so  
798 state on their face. Neither the Commonwealth nor any political subdivision thereof other than the  
799 Board shall be obligated to pledge taxing power or make appropriations or otherwise be liable for  
800 payment of such Bonds of the Board, nor shall such Bonds be payable out of any funds or properties of  
801 the Commonwealth or any political subdivision thereof other than those of the Board. Bonds of the  
802 Board authorized under this act are declared to be issued for an essential public and governmental  
803 purpose.

804 § 17. Expenses. All expenses incurred under this act in connection with issuance of the Bonds shall  
805 be paid from the proceeds of such Bonds, or any refunding bonds or BANs, or from any other funds  
806 made available to the Board.

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

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

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

823 **4. That the following is the "Western Virginia Private Investment Inducement Act of 2004."**

824 § 1. Title. This act shall be known and may be cited as the "Western Virginia Private Investment  
825 Inducement Act of 2004."

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

827 "Board" means the Commonwealth Transportation Board.

828 "Program" means the Western Virginia Investment Program established pursuant to § 33.1-221.1:10  
829 of the Code of Virginia.

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

831 "Western Virginia Investment Program" means the same as that term is defined in § 33.1-221.1:10 of  
832 the Code of Virginia.

833 § 3. The Program shall consist of Interstate 81 Improvement projects as determined by the  
834 Commonwealth Transportation Board (i) that will reduce poor air quality, (ii) that will reduce traffic  
835 congestion, or (iii) that will aid the safety of motorists or pedestrians.

836 § 4. The Commonwealth Transportation Board is hereby authorized to issue at one time or from time  
837 to time bonds in an aggregate principal amount not exceeding \$350 million to finance no more than  
838 one-half of the total costs of the projects set forth in § 3 (exclusive of any obligations that may be  
839 issued to refund such bonds) plus an additional amount for issuance costs and other financing expenses  
840 (including without limitation, any original issue discount) (the "Bonds"). The net proceeds of the Bonds  
841 shall be used exclusively for the purpose of providing funds for paying no more than one-half of the  
842 costs incurred or to be incurred for construction or funding of the projects set forth in § 3, including,  
843 but not limited to, environmental and engineering studies, rights-of-way acquisition, improvements to all  
844 modes of transportation, acquisition, construction and related improvements, and any financing costs  
845 and other financing expenses. Such costs may include the payment of interest on the Bonds for a period  
846 during construction and not exceeding one year after completion of construction of the projects. No  
847 proceeds of the bonds shall be used for any project unless the Board has entered into a contract or  
848 other agreement whereby private entities, localities, or both, are obligated to pay an amount equal to or  
849 greater than the amount the Board will pay for the project, unless the Board makes a formal  
850 determination that (i) sufficient private funds or local funds are not practically available, or (ii)  
851 sufficient private or local funds will be available within six years.

852 § 5. The Board shall take such steps as are necessary for the Projects and Program to be  
853 constructed and implemented, subject to it having sufficient funds to pay the costs for the construction of  
854 a Project or Projects, or any part thereof, as such costs become due and payable. Funds made available

by the Board to pay such costs may include, but are not limited to, the net proceeds of Bonds, including any premium received on the sale thereof, and any federal, local, or private funds or any other moneys that may be made available for such purpose.

The Board 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, operation, or maintenance of a Project or Projects, or any part thereof.

§ 6. The Board 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 Board, if the Board 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 Board 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 Board 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 Board. 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 Board. The Board 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 Board 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 Board 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 Commonwealth.

§ 10. The Bonds and BANs shall be signed on behalf of the Board by the chairman or vice-chairman of the Board, 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 Board, they shall be signed by such administrative assistant as the chairman of the Board shall determine or any registrar/paying agent that may be designated by the Board. 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 Board 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 Board in legal investments under the laws of the Commonwealth for public funds and sinking funds, as the case may be. Whenever the Board receives interest from the investment of the proceeds of



916 Bonds or any BANs, such interest shall become a part of the principal of the Bonds or any BANs and  
917 shall be used in the same manner as required or permitted for principal of the Bonds or BANs.

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

934 § 13. The Bonds authorized under § 4 may be issued without obtaining the consent of any  
935 commission, office, department, board, council, bureau, agency, or other persons or entities of the  
936 Commonwealth or of any political subdivision of the Commonwealth, and without any proceedings or  
937 the happening of conditions or things other than those proceedings, conditions or things that are  
938 specifically required under this act. The Board may issue such types of Bonds as it may determine  
939 consistent with the provisions of §§ 4 and 5 of this act and subject to § 16 of this act, including, without  
940 limitation, Bonds payable as to principal and interest from any one or more of the following sources: (i)  
941 revenues from the Western Virginia Investment Fund; (ii) to the extent required, from revenues legally  
942 available from the Transportation Trust Fund; (iii) to the extent required, from any other legally  
943 available funds; (iv) proceeds from the sale of Bonds; (v) payments under letters of credit, policies of  
944 bond insurance, guarantees, or other credit enhancements; (vi) any reserve or sinking funds created to  
945 secure such payment; or (vii) other available funds of the Board.

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

950 Any Bond authorized under this act may be issued pursuant to or secured by a trust indenture or by  
951 a trust or other agreement with a corporate trustee, which may be any trust company or bank having  
952 the powers of a trust company within or without the Commonwealth, or other agent for bondholders, or  
953 any combination thereof. Any such trust indenture or other agreement may pledge or assign revenues,  
954 fees, rents, and other charges to be received and may contain provisions for protecting and enforcing  
955 the rights and remedies of the bondholders as may be reasonable and proper and not in violation of  
956 law. Such provisions may include covenants: (i) providing for the application of revenues and sale by  
957 the Board, or any trustees under any trust indenture or agreement, of any property upon default,  
958 provided that in no case may any Project be subject to such sale; (ii) setting forth duties of the Board  
959 in relation to the acquisition, construction, maintenance, operation, and insurance of any property of the  
960 Board and the amounts of fees, rents, and other charges to be charged, but such covenants may not  
961 provide fees, rents, and other charges for use of any Project; (iii) providing for the collection of  
962 revenues, fees, rents, and other charges, and the custody, safeguarding, and application of all moneys of  
963 the Board; (iv) providing for the creation of sinking funds and the creation and maintenance of  
964 reserves; and (v) setting forth conditions or limitations with respect to the incurrence of indebtedness or  
965 the granting of liens. Such trust indenture, trust, or other agreement may set forth the rights and  
966 remedies of the bondholders and of the trustee or other agent for bondholders and may restrict the  
967 individual right of action by bondholders.

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

977 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 Board and to furnish indemnifying bonds or to pledge such securities as may be required by the Board.

§ 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 Board 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 Board or any person executing Bonds of the Board authorized under this act shall be liable personally on the Bonds by reason of their issuance or execution. Bonds of the Board 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 Board and shall so state on their face. Neither the Commonwealth nor any political subdivision thereof other than the Board shall be obligated to pledge taxing power or make appropriations or otherwise be liable for payment of such Bonds of the Board, nor shall such Bonds be payable out of any funds or properties of the Commonwealth or any political subdivision thereof other than those of the Board. Bonds of the Board 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 funds made available to the Board.

§ 18. Bonds issued by the Board 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.

**5. That the tenth enactment of Chapter 1019 of the Acts of Assembly of 2000 and the tenth enactment of Chapter 1044 of the Acts of Assembly of 2000 are repealed.**

**6. That the Commonwealth Transportation Board shall not incur more than the following amounts in debt or other payment obligations for the respective fiscal year in implementing the provisions of this act: (i) \$150 million in Fiscal Year 2005, (ii) \$350 million in Fiscal Year 2006, (iii) \$350 million in Fiscal Year 2007, and (iv) \$200 million in Fiscal Year 2008. "Debt or other payment obligations" means a source of funding, either directly or indirectly, through bonded indebtedness or other borrowings of the Board except that it shall not include the (a) issuance costs, capitalized interest, reserve funds, and other financing expenses directly relating to bonds issued under this act or (b) bond anticipation notes, refunding bonds, or refunding bond anticipation notes issued pursuant to this act.**

**7. That no moneys distributed pursuant to this act shall be used to calculate or reduce the share of federal, state, or local revenues or funds otherwise available to the localities in the counties and cities participating in those programs nor shall they be used to calculate or reduce any allocation of revenues or funds made pursuant to Title 33.1 of the Code of Virginia. Such share or allocation of revenues or funds that shall not be reduced includes, but is not limited to, state basic aid payments.**

**8. That this act shall be known as the Commonwealth Private Investment Inducement Act of 2004.**

**9. That if any clause, sentence, paragraph, section, or part of this act or the application thereof to any person, entity, or circumstance is adjudged invalid by any court of competent jurisdiction such judgment shall not affect the validity of the remainder hereof but shall be confined to the**

**1039** clause, sentence, paragraph, section, or part hereof directly involved in the controversy in which  
**1040** such judgment shall have been rendered, and to this end the provisions of this act are severable.