

BILL NO. 31-_____

THIRTY-FIRST LEGISLATURE OF THE VIRGIN ISLANDS

OF THE UNITED STATES

Special Session

2016

An Act to authorize the issuance of bonds, notes or other evidences of indebtedness (the "Series 2016 Bonds") of the Government of the Virgin Islands (the "Government") and/or the Virgin Islands Public Finance Authority (the "Authority") to provide funds (A) to finance all or a portion of the costs of certain capital improvement projects and operating expenses of the Government each as listed in Section 2 of this act (collectively, the "Series 2016 Projects") in an aggregate amount not to exceed \$396,000,000, together with the principal amount of Bonds to be issued, after giving effect to any original issue discount or original issue premium, to finance any required reserves, costs of issuance of the Series 2016 Bonds, capitalized interest, if any, allocable to the Series 2016 Capital Projects (defined herein) and interest allocable to the Series 2016 Working Capital Project (defined herein) for fiscal years 2017 through 2021, and the costs of any liquidity facility or bond insurance relating to the Series 2016 Bonds, (B) to fund any necessary reserves, (C) to fund capitalized interest, if any, allocable to the Series 2016 Capital Projects and interest allocable to the Series 2016 Working Capital Project for fiscal years 2017 through 2021, and (D) to pay the costs of issuance and any other costs and expenses necessary in connection with the issuance of the Series 2016 Bonds; (II) to authorize, as part of the foregoing clause (I), (A) the Authority to issue one or more Series of Bonds to finance any Series 2016 Project as Matching Fund Revenue Bonds (the "Series 2016 Matching Fund Revenue Bonds"), (B) the Government to issue limited special obligation notes, on a senior lien or subordinate lien basis, as applicable (the "Series 2016 Matching Fund Loan Notes"), to secure repayment of the respective Series 2016 Matching Fund Revenue Bonds, (C) the Government and the Authority to pledge their respective rights and interests in and to the Matching Fund Revenues (as hereinafter defined), on a senior lien or subordinated lien basis, as applicable, to secure repayment of (i) the respective Series 2016 Matching Fund Loan Notes and (ii) the respective Series 2016 Matching Fund Revenue Bonds, and (D) the Government and the Authority to enter into certain agreements in connection with the foregoing; (III) to authorize, as part of the foregoing clause (I), (A) the Authority to issue one or more Series of Bonds to finance any Series 2016 Project as Gross Receipts Taxes Bonds (the "Series 2016 Gross Receipts Taxes Bonds"), (B) the Government to issue general obligation notes payable from Gross Receipts Taxes to secure repayment of the Series 2016 Gross Receipts Taxes Bonds (the "Series 2016 Gross Receipts Taxes Loan Notes"), (C) the Government and the Authority to pledge their respective rights and interests in and to the Gross Receipts Taxes (as hereinafter defined) to secure repayment of (i) the respective Series 2016 Gross Receipts Taxes Loan Notes, and (ii) the respective Series 2016 Gross Receipts Taxes Bonds; (D) the Government and the Authority to enter into certain agreements in connection with the foregoing, and (IV) to create and impose certain statutory liens that do and shall arise solely by force of this Act; and (V) to authorize the Department of Property and Procurement, on behalf of the Government of the Virgin islands, to negotiate, in compliance with 31 V.I.C. 231a(c), the acquisition of certain real

property on the island of St. John as the site for the construction of the St. John Elementary and Middle School, to be financed from a portion of the proceeds of the Series 2016 Bonds.

PROPOSED BY: GOVERNOR

WHEREAS, the Government continues to experience financial challenges as a consequence of global and regional conditions, including but not limited to, the economic downturn of the Great Recession and the closure of the HOVENSA refinery in 2012, resulting in a projected revenue shortfall for fiscal year 2017 of approximately \$170 Million and additional projected revenue shortfalls through fiscal year 2021;

WHEREAS, the Government has developed a five-year plan attached hereto (the “Five-Year Plan”) that includes, but is not limited to, various revenue-enhancement and operating cost reduction initiatives to reduce such projected revenue shortfalls;

WHEREAS, the Five-Year Plan includes, as a basis, a five-year (fiscal years 2017-2021) projection of revenues and expenditures based upon current policies, tax rates, existing revenue generating and cost reduction efforts, with assumptions utilized for such five-year projections relying on audited financial statements of the Government, adopted budgets, forecasts and economic and demographic data provided by Government officials and other sources;

WHEREAS, to increase revenues, the Five-Year Plan proposes various revenue generating initiatives, several of which will require legislative approval, including: (i) a comprehensive study on real property taxation in the Virgin Islands to assess the impact of, and to recommend, elimination or reduction of certain tax credits and exemptions to different classes of real property owners; (ii) an increase on the excise tax on rum, wines and brandies; (iii) imposition of a marine user’s tax, (iv) imposition of an internet sales tax; (v) an increase in the tax on imported United States and foreign beer; (vi) imposition of a tax on sweetened carbonated beverages; (vii) improvement to the existing Virgin Islands Economic Development Commission Benefits program to enhance efficiency to generate increased tax revenues to the Government on the worldwide incomes of EDC applicants that file in the Territory; and (viii) increased revenues from the Limetree Bay Terminals upon the refinery restart and projected increases in taxes to be collected from a new docking buoy for cargo ships transporting to and from the terminals;

WHEREAS, to supplement the planned revenue generating initiatives, the Five-Year Plan proposes the following operating cost reduction initiatives: (i) limitation on budgeted vacancies for personnel and fringe benefits; (ii) reduction in non-personnel costs; (iii) engagement of a professional insurance risk manager to reduce annual property insurance premium costs; (iv) imposition of a charge-back fee for payment of Government services through debit/credit cards; and (v) reduction in health insurance costs for active and retired Government employees;

WHEREAS, the implementation of the revenue-generating and cost-reduction initiatives outlined in the Five-Year, once approved and/or enacted into law when and as required, is projected to commence in fiscal year 2017;

WHEREAS, the projected increase in revenues from such revenue generating and cost savings initiatives is projected to be insufficient to fully eliminate the projected revenue shortfalls during the five-year period commencing with fiscal year 2017;

WHEREAS, in order to provide for essential governmental services and operations, the Government will require working capital for fiscal years 2017 and 2018 (the “Series 2016 Working Capital Project”);

WHEREAS, the Government desires to stimulate the economy by financing the construction and/or reconstruction, and equipping, of certain critical Government facilities through the development, improvement, construction and/or reconstruction of certain capital improvement projects each as described more particularly in Section 2 of this Act (the “Series 2016 Capital Projects”, together with the Series 2016 Operating Project, the “Series 2016 Projects”);

WHEREAS, the Authority has entered into an Indenture of Trust, dated as of May 1, 1998, as amended and supplemented from time to time (collectively, the “Matching Fund Revenue Indenture”), authorized under the Virgin Islands Revised Organic Act, as amended, 48 U.S.C.A §1574 et seq. (West 1987) (the “Revised Organic Act”), and Title 29, Chapter 15, of the Virgin Islands Code (the “PFA Act”, and together with the Revised Organic Act, the “Act”), pursuant to which the Authority previously has issued, and may in the future issue, its Matching Fund Revenue Bonds (the “Matching Fund Revenue Bonds”);

WHEREAS, the Authority has also entered into an Indenture of Trust, dated as of November 1, 1999, as amended and supplemented from time to time (collectively, the “Gross Receipts Taxes Indenture”), authorized under the Act, pursuant to which the Authority has issued, and may in the future issue, its bonds (the “Gross Receipts Taxes Bonds”);

WHEREAS, in order to finance all or a portion of the costs of the Series 2016 Projects described above, the Authority intends to issue one or more series of Series 2016 Bonds under either the Matching Fund Revenue Indenture and/or the Gross Receipts Taxes Indenture, at the discretion of the Governor, acting through the Commissioner of Finance;

WHEREAS, the Authority has entered into (i) a Subordinated Indenture of Trust, dated as of July 1, 2009, as amended and supplemented from time to time (collectively, the “Diageo Subordinated Matching Fund Revenue Indenture”), authorized under the Act and 2008 V.I. Act No. 7012 and 2009 V.I. Act No. 7062, pursuant to which the Authority previously has issued, and may in the future issue, certain of its subordinated revenue bonds (the “Diageo Subordinated Matching Fund Revenue Bonds”), and (ii) a Diageo Special Escrow Agreement, dated as of June 1, 2009 (the “Diageo Special Escrow Agreement”), by and among the Authority, the Government, and The Bank of New York Mellon Trust Company, N.A., as special escrow agent (in such capacity, the “Diageo Special Escrow Agent”); pursuant to an Agreement, dated June 17, 2008, by and between the Government and Diageo USVI Inc., as amended and supplemented from time to time (the “Diageo Agreement”),

WHEREAS, the Diageo Subordinated Matching Fund Revenue Bonds are secured by, among other collateral, amounts deposited with the Diageo Special Escrow Agent on behalf of the Government pursuant to (i) Section 28(b) of the Revised Organic Act, 48 U.S.C §§ 1574-1574c,

as amended, or any successor provisions thereto, and (ii) Section 6.1 of the Diageo Agreement (the “Diageo Matching Fund Revenues”);

WHEREAS, the Authority has entered into a Subordinated Indenture of Trust, dated as of December 1, 2009, as amended and supplemented from time to time (collectively, the “Cruzan Subordinated Matching Fund Revenue Indenture”), authorized under the Act and 2009 V.I. Act No. 7127 and 2009 V.I. Act No. 7062, pursuant to which the Authority previously has issued, and may in the future issue, certain of its subordinated revenue bonds (the “Cruzan Subordinated Matching Fund Revenue Bonds”), and (ii) a Cruzan Special Escrow Agreement, dated as of December 1, 2009 by and among the Authority, the Government, and The Bank of New York Mellon Trust Company, N.A., as special escrow agent (in such capacity, the “Cruzan Special Escrow Agent”) (the “Cruzan Special Escrow Agreement”) pursuant to an Agreement, dated October 6, 2009, by and between the Government and Cruzan VIRIL, Ltd., as amended and supplemented from time to time (the “Cruzan Agreement”);

WHEREAS, the Cruzan Subordinated Matching Fund Revenue Bonds are secured by, among other collateral, amounts deposited with the Cruzan Special Escrow Agent on behalf of the Government pursuant to (i) Section 28(b) of the Revised Organic Act, 48 U.S.C §§ 1574-1574c, as amended, or any successor provisions thereto, and (ii) Section 6.1 of the Cruzan Agreement (the “Cruzan Matching Fund Revenues”); and

WHEREAS, to acquire the real property necessary for the construction of the St. John Elementary and Middle School, the Department of Property and Procurement, on behalf of the Government of the Virgin Islands, in compliance with 31 V.I.C. 231a(c), intends to negotiate for, and purchase, Parcel No. 537-1 Estate Chocolate Hole, No. 11 Cruz Bay Quarter, St. John, Virgin Islands, as more particularly shown on O.L.G. A-9 454-T94; Parcel No. 537-2 Estate Chocolate Hole, No. 11 Cruz Bay Quarter, St. John, Virgin Islands, as more particularly shown on O.L.G. A-9 454-T94, Parcel No. 537-4 (AKA The Pond) Estate Chocolate Hole, No 11 Cruz Bay Quarter, St. John, Virgin Islands, as more particularly shown on O.L.G. A-9-776-T012, and Parcel No. 537 Remainder Estate Chocolate Hole, No 11 Cruz Bay Quarter, St. John, Virgin Islands, as more particularly shown on O.L.G. A-9-776-T012 (the “St. John Real Property”);

Now, Therefore, Be It Enacted By The Legislature Of The Virgin Islands:

SECTION 1. Authorization to Borrow to Finance the Series 2016 Projects.

(A) **Authorization to Borrow on a Limited Obligation Basis or a General Obligation Basis.** The Authority is authorized to issue the Series 2016 Bonds to provide funds (i) to finance all or a portion of the costs of the Series 2016 Projects in an aggregate amount not to exceed \$396,000,000, together with the principal amount of Bonds to be issued, after giving effect to any original issue discount or original issue premium, to finance any required reserves, costs of issuance of the Series 2016 Bonds, capitalized interest, if any, allocable to such Series 2016 Capital Projects, interest allocable to the Series 2016 Working Capital Project for fiscal years 2017 through 2021, and the costs of any liquidity facility or bond insurance relating to such Series 2016 Bonds; (ii) to fund any necessary reserves, (iii) to pay the costs of issuance of the Series 2016 Bonds and Series 2016 Bonds Loan Notes (defined herein), (iv) to finance capitalized interest, if any, allocable to the Series 2016 Capital Projects, (v) to finance interest allocable to the Series 2016

Working Capital Project for fiscal years 2017 through 2021, and (vi) to pay the costs of any liquidity facility or bond insurance relating to the Series 2016 Bonds. Such Series 2016 Bonds shall be secured, on a senior lien or subordinate lien basis, as applicable, by the Matching Fund Revenues (the “Series 2016 Matching Fund Revenue Bonds”) or the Gross Receipts Taxes (the “Series 2016 Gross Receipts Taxes Bonds”, and together with the Series 2016 Matching Fund Revenue Bonds, the “Series 2016 Bonds”), as determined by the Government and the Authority. As evidence of its obligation to repay the Series 2016 Matching Fund Revenue Bonds, the Government is hereby authorized to issue as its Series 2016 Matching Fund Revenue Loan Notes and execute the Series 2016 Matching Fund Revenue Loan Agreements. As evidence of its obligation to repay the Series 2016 Gross Receipts Taxes Bonds, the Government is hereby authorized to issue its Series 2016 Gross Receipts Taxes Bonds Loan Notes and to execute the Series 2016 Gross Receipts Taxes Bonds Loan Agreements. The Series 2016 Gross Receipts Taxes Bond Loan Notes and the Series 2016 Gross Receipts Taxes Bonds Loan Agreements, together with the Series 2016 Matching Fund Loan Notes and the Series 2016 Matching Fund Loan Agreements, are collectively referred to herein as the “Series 2016 Loan Notes” and the “Series 2016 Loan Agreements”, respectively.

(B) (1) Authorization to Pledge Matching Fund Revenues to Secure Series 2016 Matching Fund Revenue Bonds. The Government is hereby authorized to issue all or a portion of the Series 2016 Bonds as Series 2016 Matching Fund Revenue Bonds and to pledge a first lien on and security interest in certain revenues to be received by or for the account of the Government pursuant to Section 7652 of the Internal Revenue Code of 1986, as amended (hereinafter referred to as “Matching Fund Revenues”), to be received by the Government free and clear of any prior liens or security interests pursuant to Title 29, Section 922 of the Virgin Islands Code, as security for repayment of the Series 2016 Matching Fund Revenue Loan Notes. The Special Escrow Agreement, dated as of May 1, 1998, as supplemented and amended, entered into by and between the Government, the Authority and The Bank of New York Mellon Trust Company, N.A. (f/k/a The Bank of New York Trust Company, N.A.), as successor Special Escrow Agent (in such capacity, the “MFR Special Escrow Agent”) (collectively, the “MFR Special Escrow Agreement”), providing for the deposit and administration of funds for the benefit of the holders of the outstanding Matching Fund Revenue Bonds and any other bonds issued pursuant to the Matching Fund Revenue Bond Indenture (“Matching Fund Revenue Additional Bonds”), shall be maintained in full force and effect for so long as any bonds are outstanding under the Matching Fund Revenue Indenture. The Government and the Authority are hereby authorized and directed to take any and all actions necessary or appropriate from time to time to implement and maintain the MFR Special Escrow Agreement in full force and effect for so long as any bonds are outstanding under the Matching Fund Revenue Indenture.

In connection with the issuance of the Series 2016 Matching Fund Revenue Bonds, and in furtherance of the pledge of the Matching Fund Revenues authorized herein, the Government and the Authority are hereby authorized to execute one or more agreements or other instruments, pursuant to which (i) all Matching Fund Revenues shall continue to be delivered directly from the United States Department of the Treasury to the MFR Special Escrow Agent for deposit to the Special Escrow Fund, known as the “Matching Fund Revenue Special Escrow Account”, which account shall be maintained in the custody of the MFR Special Escrow Agent and shall be held separate from any other funds and accounts of the Government or such banking institution, (ii) the Government shall pledge and assign to the Authority, which shall in turn assign to the Trustee under

the Matching Fund Revenue Indenture (the “MFR Indenture Trustee”), on behalf of the holders of the outstanding Matching Fund Revenue Bonds, the Series 2016 Matching Fund Revenue Bonds, and any Matching Fund Revenue Additional Bonds, a first lien on and a security interest, in all such amounts deposited into the Matching Fund Revenue Special Escrow Account, (iii) such MFR Special Escrow Agent shall remit, or cause to be remitted, from amounts on deposit in the Matching Fund Revenue Special Escrow Account, (x) *first*, to the MFR Indenture Trustee, such amounts as are necessary under the Matching Fund Revenue Indenture and all supplemental indentures thereto or the respective loan agreement, to satisfy the Government’s payment obligations then due, and (y) *second*, (a) to the Diageo Special Escrow Agent for delivery to the Trustee under the Diageo Subordinated Matching Fund Revenue Indenture, each appointed in accordance with the provisions of the Diageo Agreement, to the extent available Matching Fund Revenues allocable to the project described in the Diageo Agreement are then available, the allocable portion of such Matching Fund Revenues to satisfy (A) the Government’s payment obligations then due under the indenture of trust and loan agreement entered into and (B) the Government’s payment obligations under the Diageo Agreement, (b) to the Cruzan Special Escrow Agent for delivery to the Trustee under the Cruzan Subordinated Matching Fund Revenue Indenture, each appointed in accordance with the provisions of the Cruzan Agreement, to the extent available Matching Fund Revenues allocable to the project described in the Cruzan Agreement are then available, the allocable portion of such Matching Fund Revenues to satisfy (A) the Government’s payment obligations then due under the indenture of trust and loan agreement entered into and (B) the Government’s payment obligations under the Cruzan Agreement, and (z) *third*, to the Government for use by the Government for any lawful purpose, and (iv) the Government shall covenant that, in the event the United States government discontinues providing Matching Fund Revenues to the Government and substitutes another source of revenues in lieu thereof, the Government shall use its best efforts to add or substitute such source of revenues (the “Substitute Revenues”) to pledge as security for the repayment for the Series 2016 Matching Fund Revenue Loan Notes, which Substitute Revenues will be deposited into the Matching Fund Revenues Special Escrow Account, be subject to the security interest granted therein and be remitted therefrom in the same manner as authorized in clauses (i), (ii) and (iii) above. Notwithstanding any other law, rule or regulation to the contrary, upon deposit of the Matching Fund Revenues into the Matching Fund Revenue Special Escrow Account, such amounts so deposited shall not be subject to any prior lien or attachment by any creditor of the Government or by any other person or entity other than the liens and security interests authorized by this paragraph (B)(1) and otherwise in this Act.

(2) **Non-Impairment Covenant.** In furtherance of the pledge of the Matching Fund Revenues authorized by this Act, the Government is hereby authorized and directed to covenant and agree for the benefit of the holders of the outstanding Matching Fund Revenue Bonds, Series 2016 Matching Fund Revenue Bonds and any Matching Fund Revenue Additional Bonds that, for so long as any related loan notes issued by the Government remain unpaid, the Government shall continue to (i) take all steps necessary to ensure the receipt and continued collection of Matching Fund Revenues and the deposit of Matching Fund Revenues into the Matching Fund Revenue Special Escrow Account, (ii) to the extent permitted by law, defend, preserve and protect such pledge, lien and security interest and all rights of the holders of such loan notes against all claims and demands of third parties, (iii) not revoke, terminate or amend such pledge, lien and security interest in any way that materially adversely affects the rights of any holder of such loan notes or bondholders, (iv) not take any action that would, directly or indirectly, result in the repeal, rescission or termination of Section 1574a of the Revised Organic Act (or any successor provision) or a reduction in collections of Matching Fund Revenues or a restriction or reduction in application of the Matching Fund Revenues

in general, if such action would materially adversely affect the rights of any holder of such loan notes or bondholders, and (v) not take any action or fail to take any action which will limit, restrict or in any way impair in general the collection, transfer, deposit to, or disbursement of Matching Fund Revenues from the Matching Fund Revenues Special Escrow Account, or allow, permit or suffer to exist any prior lien, attachment or pledge (other than any liens and pledges authorized herein) of Matching Fund Revenues deposited into or required to be deposited into the Matching Fund Revenues Special Escrow Account.

(3) **Authorization to Assign Series 2016 Matching Fund Revenue Loan Notes and Series 2016 Matching Fund Revenue Loan Agreements.** In connection with the issuance by the Authority of the Series 2016 Matching Fund Revenue Bonds, the Authority is hereby authorized to assign to the MFR Indenture Trustee, for the benefit of the holders of the Series 2016 Matching Fund Revenue Bonds, the Authority's rights and interest in, to and under the Series 2016 Matching Fund Revenue Loan Notes and the Series 2016 Matching Fund Revenue Loan Agreements or other instruments authorized herein, subject to and in accordance with the terms of the Matching Fund Revenue Indenture and the Series 2016 Matching Fund Revenue Loan Agreements.

(4) **Authorization to Execute All Necessary Agreements.** The Government, acting by the Governor or Commissioner of Finance, and the Authority, acting by the Governor as Chairman (or such other member(s) designated in the resolution of the Authority), are each hereby authorized to (i) execute and deliver all documents and agreements necessary or advisable in connection with the issuance of the Series 2016 Matching Fund Revenue Bonds authorized herein, (ii) loan the proceeds of the Authority's Series 2016 Matching Fund Revenue Bonds to the Government as contemplated herein, and (iii) pay all expenses associated with the issuance of the Series 2016 Matching Fund Revenue Bonds authorized herein, including, without limitation, any costs or expenses required to be paid by or in relation to the Series 2016 Matching Fund Revenue Loan Agreement authorized herein, including capitalized interest, if any, allocable to the Series 2016 Capital Projects, interest allocable to the Series 2016 Working Capital Project for fiscal years 2017 through 2021, and any liquidity facility or bond insurance policy relating to the Series 2016 Matching Fund Revenue Bonds.

(C) (1) **Authorization to Borrow on a General Obligation Basis and to Pledge Gross Receipts Taxes to Secure the 2016 Gross Receipts Taxes Bonds.** The Authority is authorized to issue all or a portion of the Series 2016 Bonds as Gross Receipts Taxes Bonds to provide funds (i) to finance all or a portion of the costs of the Series 2016 Projects, (ii) to fund any necessary reserves, (iii) to pay the costs of issuance of the Series 2016 Gross Receipts Taxes Bonds and the Series 2016 Gross Receipts Taxes Bonds Loan Notes, (iv) to pay capitalized interest, if any, allocable to the Series 2016 Capital Projects, (v) to pay interest allocable to the Series 2016 Working Capital Project for fiscal years 2017 through 2021, (vi) to pay the costs of any liquidity facility or bond insurance relating to the Series 2016 Gross Receipts Taxes Bonds. The Government is hereby authorized to issue its Series 2016 Gross Receipts Taxes Bonds Loan Notes and execute the Series 2016 Gross Receipts Taxes Bonds Loan Agreements to evidence its obligation to repay the Series 2016 Gross Receipts Loan Notes and to pledge its full faith and credit and taxing power and the Gross Receipts Taxes imposed and the resulting taxes collected and to be collected by the Government (together with all fines, interest, penalties and other charges assessed, imposed or otherwise payable in relation to such taxes and revenues) pursuant to Title 33, Section 43 of the Virgin Islands Code (the "Gross Receipts Taxes Bonds Act") (hereinafter referred to as "Gross

Receipts Tax Revenues”) as security for repayment of the Series 2016 Gross Receipts Taxes Bonds Loan Notes, subject and subordinate to, and net of, the “Required Annual Moderate Income Housing Fund Deposit” (being the first \$250,000 of Gross Receipts Taxes collected during each fiscal year of the Government, which \$250,000 per annum is to be deposited in the Moderate Housing Income Fund of the Government, free and clear of any pledge or lien securing the Series 2016 Gross Receipts Taxes Bonds Loan Notes or any Gross Receipts Taxes Bonds). The Special Escrow Agreement, dated as of November 1, 1999, entered into by and between the Government, the Authority and The Bank of New York Mellon Trust Company, N.A., as successor Special Escrow Agent (in such capacity, the “GRT Special Escrow Agent”), as amended (collectively, the “GRT Special Escrow Agreement”), and the Collecting Agent Agreement, dated as of November 1, 1999, entered into by and among the Government, the Authority, the GRT Special Escrow Agent and First Bank Puerto Rico, as successor Collecting Agent (the “Collecting Agent”), as amended (collectively, the “Collecting Agent Agreement”), providing for the deposit and administration of funds for the benefit of the holders of the outstanding Gross Receipts Taxes Bonds, the Series 2016 Gross Receipts Taxes Bonds and any additional bonds issued pursuant to the Gross Receipts Taxes Bonds Indenture (the “Gross Receipts Taxes Bonds Additional Bonds”), shall be maintained in full force and effect for so long as any bonds are outstanding under the Gross Receipts Taxes Indenture. The Government and the Authority are hereby authorized and directed to take any and all actions necessary or appropriate from time to time to implement and maintain the GRT Special Escrow Agreement and the Collecting Agent Agreement in full force and effect for so long as any bonds are outstanding under the Gross Receipts Taxes Indenture.

In connection with the issuance of the Series 2016 Gross Receipts Taxes Bonds and in furtherance of the pledge of the Gross Receipts Tax Revenues authorized herein, the Government and the Authority are hereby authorized to execute one or more agreements or other instruments, pursuant to which (i) all Gross Receipts Tax Revenues shall continue to be delivered directly from the Virgin Islands Internal Revenue Bureau to the Collecting Agent for deposit to the GRT Special Escrow Agent for deposit to the special escrow account known as the “Gross Receipts Taxes Bonds Special Escrow Account”, which account shall be maintained in the custody of the GRT Special Escrow Agent and shall be held separate from any other funds and accounts of the Government or such banking institutions, (ii) the Government shall pledge and assign to the Authority, which shall in turn assign to the Trustee under the Gross Receipts Taxes Indenture (the “GRT Indenture Trustee”), on behalf of the holders of the outstanding Gross Receipts Taxes Bonds, the Series 2016 Gross Receipts Taxes Bonds and any Gross Receipts Taxes Bonds Additional Bonds, a first lien on and a security interest in all such amounts deposited into the Gross Receipts Taxes Bonds Special Escrow Account, (iii) the GRT Special Escrow Agent shall remit, or cause to be remitted, from amounts on deposit in the Gross Receipts Taxes Bonds Special Escrow Account, *(x) first*, to the GRT Indenture Trustee, such amounts as are necessary under the Gross Receipts Taxes Bonds Indenture and any supplemental indenture thereto or the respective loan agreement, to satisfy the Government’s payment obligations then due, and *(y) second*, to the Government for use by the Government for any lawful purpose, and (iv) the Government shall covenant that, in the event the Government discontinues the imposition of the Gross Receipts Tax Revenues and substitutes another source of revenues in lieu thereof, the Government shall use its best efforts to add or substitute such source of revenues (the “Substitute Revenues”) to pledge as security for the repayment for the Series 2016 Gross Receipts Taxes Bonds Loan Notes, which Substitute Revenues will be deposited into the Gross Receipts Taxes Bonds Special Escrow Account, be subject to the security interest granted therein and be remitted therefrom in the same manner as authorized in clauses (i), (ii) and (iii) above. Notwithstanding any other law,

rule or regulation to the contrary, upon deposit of the Gross Receipts Tax Revenues into the Gross Receipts Tax Special Escrow Account, such amounts so deposited shall not be subject to any prior lien or attachment by any creditor of the Government or by any other person or entity other than the liens and security interests authorized by this paragraph (C)(1) and otherwise in this Act.

(2) **Authorization to Assign Series 2016 Gross Receipts Taxes Loan Notes and Series 2016 Gross Receipts Taxes Loan Agreements.** In connection with the issuance by the Authority of the Series 2016 Gross Receipts Taxes Bonds, the Authority may assign to the GRT Indenture Trustee, for the benefit of the holders of the Series 2016 Gross Receipts Taxes Bonds, the Authority's rights and interest in, to and under the Series 2016 Gross Receipts Loan Notes and the Series 2016 Gross Receipts Taxes Loan Agreements or other instruments authorized in this Act, subject to and in accordance with the terms of the Gross Receipts Taxes Bonds Indenture and the Series 2016 Gross Receipts Taxes Loan Agreements.

(D) **Matching Fund Revenue Bonds Statutory Lien.** (1) To secure the full and timely payment of all Matching Fund Revenue Bonds issued by the Authority under the Matching Fund Revenue Indenture, in accordance with their respective terms, whether such Matching Fund Revenue Bonds have been or are issued before or after the effective date of this Act, including the Series 2016 Matching Fund Revenue Bonds and any Matching Fund Revenue Additional Bonds, all such Matching Fund Revenue Bonds are and shall be secured by a statutory lien on all Matching Fund Revenues. The lien shall arise solely by force of this Act specifically upon the effective date of this Act in the case of Matching Fund Revenue Bonds issued before the effective date of this Act, and upon the issuance of any Matching Fund Revenue Bonds issued after the effective date of this Act, including the Series 2016 Matching Fund Revenue Bonds and any Matching Fund Revenue Additional Bonds, and shall automatically attach without further action or authorization by the Government or the Authority. The lien shall be valid and binding from the time the Matching Fund Revenues are received by or for the account of the Government, and the lien shall immediately attach to such Matching Fund Revenues and be effective, binding and enforceable against the Government or the Authority, as applicable, their respective successors, transferees, or creditors, and all others asserting rights therein, irrespective of whether those parties have notice of the lien and without the need for any physical delivery, recordation, filing, or further act.

(2) The Government is hereby authorized and directed to covenant and agree for the benefit of the holders of the Matching Fund Revenue Bonds outstanding from time to time that for so long as any Matching Fund Revenue Bonds, including the Series 2016 Matching Fund Revenue Bonds and any Matching Fund Revenue Additional Bonds, remain unpaid, the Government shall (i) defend, preserve and protect such statutory lien against all claims and demands of third parties, and (ii) not revoke, terminate or amend such statutory lien in any way that materially adversely affects the rights of any holder of Matching Fund Revenue Bonds.

(E) **Gross Receipts Taxes Bonds Statutory Lien.** (1) To secure the full and timely payment of all Gross Receipts Taxes Bonds issued by the Authority under the Gross Receipts Taxes Indenture, in accordance with their respective terms, whether such Gross Receipts Taxes Bonds have been or are issued before or after the effective date of this Act, including the Series 2016 Gross Receipts Taxes Bonds and any Gross Receipts Taxes Additional Bonds, all such Gross Receipts Taxes Bonds are and shall be secured by a statutory lien on all Gross Receipts Tax Revenues. The lien shall arise solely by force of this Act specifically upon the effective date of

this Act in the case of Gross Receipts Taxes Bonds issued before the effective date of this Act, and upon the issuance of any Gross Receipts Taxes Bonds issued after the effective date of this Act, including the Series 2016 Gross Receipts Taxes Bonds and any Gross Receipts Taxes Additional Bonds, and shall automatically attach without further action or authorization by the Government or the Authority. The lien shall be valid and binding from the time the Gross Receipts Tax Revenues are imposed or collected by or for the account of the Government, and the lien shall immediately attach to such Gross Receipts Tax Revenues and be effective, binding and enforceable against the Government or the Authority, as applicable, their respective successors, transferees, or creditors, and all others asserting rights therein, irrespective of whether those parties have notice of the lien and without the need for any physical delivery, recordation, filing, or further act; provided, however, that in each fiscal year of the Government the lien shall be subject and subordinate to the Required Annual Moderate Income Housing Fund Deposit.

(2) The Government is hereby authorized and directed to covenant and agree for the benefit of the holders of the Gross Receipts Tax Bonds outstanding from time to time that for so long as any Gross Receipts Tax Bonds, including the Series 2016 Gross Receipts Tax Bonds and any Gross Receipts Taxes Additional Bonds, remain unpaid, the Government shall (i) defend, preserve and protect such statutory lien against all claims and demands of third parties, and (ii) not revoke, terminate or amend such statutory lien in any way that materially adversely affects the rights of any holder of Gross Receipts Tax Bonds.

(F) **Diageo Subordinated Matching Fund Revenue Bonds Statutory Lien.** (1) Subject to (i) paragraphs (D)(1) and (D)(2), and paragraphs (G)(1) and (G)(2), of Section 1 of this Act, (ii) the terms of the Matching Fund Revenue Bonds and the Matching Fund Revenue Indenture, and (iii) the terms of any contractual obligation of the Government securing, directly or indirectly, the payment of any Matching Fund Revenue Bonds or any other amounts payable pursuant to the Matching Fund Revenue Indenture, to secure the full and timely payment of all Diageo Subordinated Matching Fund Revenue Bonds issued by the Authority under the Diageo Subordinated Matching Fund Revenue Indenture, in accordance with their respective terms, whether such Diageo Subordinated Matching Fund Revenue Bonds have been or are issued before or after the effective date of this Act, all such Diageo Subordinated Matching Fund Revenue Bonds are and shall be secured by a statutory lien on all Diageo Matching Fund Revenues. The lien shall arise solely by force of this Act specifically upon the effective date of this Act in the case of Diageo Subordinated Matching Fund Revenue Bonds issued before the effective date of this Act, and upon the issuance of any Diageo Subordinated Matching Fund Revenue Bonds issued after the effective date of this Act, and shall automatically attach without further action or authorization by the Government or the Authority. The lien shall be valid and binding from the time the Diageo Matching Fund Revenues are deposited with the Diageo Special Escrow Agent on behalf of the Government, and the lien shall immediately attach to such Diageo Matching Fund Revenues and be effective, binding and enforceable against the Government or the Authority, as applicable, their respective successors, transferees, or creditors, and all others asserting rights therein, irrespective of whether those parties have notice of the lien and without the need for any physical delivery, recordation, filing, or further act.

(2) The Government is hereby authorized and directed to covenant and agree for the benefit of the holders of the Diageo Subordinated Matching Fund Revenue Bonds outstanding from time to time that for so long as any Diageo Subordinated Matching Fund Revenue Bonds

remain unpaid, the Government shall (i) defend, preserve and protect such statutory lien against all claims and demands of third parties, and (ii) not revoke, terminate or amend such statutory lien in any way that materially adversely affects the rights of any holder of Diageo Subordinated Matching Fund Revenue Bonds.

(G) **Cruzan Subordinated Matching Fund Revenue Bonds Statutory Lien.** (1) Subject to (i) paragraphs (D)(1) and (D)(2), and paragraphs (F)(1) and (F)(2), of Section 1 of this Act, (ii) the terms of the Matching Fund Revenue Bonds and the Matching Fund Revenue Indenture, and (iii) the terms of any contractual obligation of the Government securing, directly or indirectly, the payment of any Matching Fund Revenue Bonds or any other amounts payable pursuant to the Matching Fund Revenue Indenture, to secure the full and timely payment of all Cruzan Subordinated Matching Fund Revenue Bonds issued by the Authority under the Cruzan Subordinated Matching Fund Revenue Indenture, in accordance with their respective terms, whether such Cruzan Subordinated Matching Fund Revenue Bonds have been or are issued before or after the effective date of this Act, all such Cruzan Subordinated Matching Fund Revenue Bonds are and shall be secured by a statutory lien on all Cruzan Matching Fund Revenues. The lien shall arise solely by force of this Act specifically upon the effective date of this Act in the case of Cruzan Subordinated Matching Fund Revenue Bonds issued before the effective date of this Act, and upon the issuance of any Cruzan Subordinated Matching Fund Revenue Bonds issued after the effective date of this Act, and shall automatically attach without further action or authorization by the Government or the Authority. The lien shall be valid and binding from the time the Cruzan Matching Fund Revenues are deposited with the Cruzan Special Escrow Agent on behalf of the Government, and the lien shall immediately attach to such Cruzan Matching Fund Revenues and be effective, binding and enforceable against the Government or the Authority, as applicable, their respective successors, transferees, or creditors, and all others asserting rights therein, irrespective of whether those parties have notice of the lien and without the need for any physical delivery, recordation, filing, or further act.

(2) The Government is hereby authorized and directed to covenant and agree for the benefit of the holders of the Cruzan Subordinated Matching Fund Revenue Bonds outstanding from time to time that for so long as any Cruzan Subordinated Matching Fund Revenue Bonds remain unpaid, the Government shall (i) defend, preserve and protect such statutory lien against all claims and demands of third parties, and (ii) not revoke, terminate or amend such statutory lien in any way that materially adversely affects the rights of any holder of Cruzan Subordinated Matching Fund Revenue Bonds.

(H) **Authorization to Execute All Necessary Agreements.** The Government, acting by the Governor or Commissioner of Finance, and the Authority, acting by the Governor as Chairman, or such other member or members designated in the resolution of the Authority, each may

(1) execute and deliver all documents and agreements necessary or advisable in connection with the issuance of the Series 2016 Bonds authorized herein,

(2) loan the proceeds of the Series 2016 Bonds to the Government as contemplated herein, and

(3) pay all costs and expenses associated with the issuance of the bonds, notes, and other evidence of indebtedness authorized in this act, including, without limitation, any costs or expenses required to be paid by or in relation to the Series 2016 Loan Agreements authorized herein, including any liquidity facility or bond insurance policy relating to the Series 2016 Bonds. As evidence of its obligation to repay any Series 2016 Matching Fund Revenue Bonds, the Government is hereby authorized to issue its Series 2016 Matching Fund Revenue Loan Notes and execute one or more loan agreements with respect thereto, on a senior lien or subordinate lien basis as provided above (the “Series 2016 Matching Fund Revenue Loan Agreements”). As evidence of its obligation to repay any Series 2016 Gross Receipts Taxes Bonds, the Government is hereby authorized to issue its Series 2016 Gross Receipts Taxes Loan Notes and to execute one or more loan agreements with respect thereto (the “Series 2016 Gross Receipts Taxes Loan Agreements”).

SECTION 2. Series 2016 Projects. (A) The Legislature finds that there exists in the Virgin Islands a critical need for infrastructure development and economic stimulus through capital investment and local construction, development of Government capital improvement projects and the funding of working capital for certain critical Government operations (together with the funding of interest allocable to such working capital in an amount not to exceed \$50 million). Proceeds of a portion of the Series 2016 Bonds shall be applied to pay some or all of the costs of the Series 2016 Projects, each as described more fully below.

<u>Project</u>	<u>2016 Capital Projects</u>	<u>Series 2016 Working Capital Project</u>
Department of Education - construction, renovation and equipping of certain Department of Education facilities	\$20,000,000	
Central Government-Operating Costs		\$116,000,000
Virgin Islands Waste Management Authority - operating expenses		6,000,000
Virgin Islands Waste Management Authority – tire shredder system	5,000,000	
Hospitals - Juan F. Luis Hospital and Roy Lester Schneider Medical Center operating expenses		25,000,000
Hospitals - Juan F. Luis Hospital and Roy Lester Schneider Medical Center – structural repairs	10,000,000	
WICO/GERS Havensight - construction of infrastructure improvements to modernize the WICO/Havensight complex	5,000,000	
Government Historical Properties Improvements - construction, renovation and equipping of Government historical properties on the islands of St. Croix, St. Thomas and St. John	20,000,000	
Fire Stations – construction and equipping of a new fire station on each of the islands of St. Croix and St. John	12,000,000	

Frederiksted Revitalization Project – acquisition of real property and construction of infrastructure and capital improvements related to the Paul E. Joseph Stadium and the revitalization of Frederiksted	9,000,000
Department of Sports & Recreation – construction; renovation and equipping of the Lionel Roberts Stadium and the Winston Raymo Recreation center and improvements to recreational facilities in Christiansted including, but not limited to, construction of National Hot Rod Association tracks, beach and park improvements	35,000,000
Department of Finance Building Improvements – construction, renovation and equipping of two wings of the Department of Finance building for occupation by certain operations of the Office of Management and Budget and the Bureau of Information Technology	8,000,000
Virgin Island Police Department/Virgin Islands Bureau of Corrections (Golden Grove) – construction, renovation and improvements to facilities of the Virgin Islands Police Department and the Bureau of Corrections at Golden Grove Correctional Facility	10,000,000
Department of Planning and Natural Resources – construction of improvements to, renovation and equipping of an existing building for occupation by the Department of Planning and Natural Resources	6,000,000
Department of Justice – construction and equipping of a new administrative building on the island of St. Croix for occupation by the Department of Justice	23,000,000
Bureau of Motor Vehicles – construction of new administrative buildings, or construction of improvements to existing buildings, on the islands of St. Croix and St. Thomas	7,000,000
Office of the Lt. Governor – purchase of a building for occupation by all of the Divisions of the office of the Lieutenant Governor on the island of St. Thomas	6,000,000
St. Croix International Multipurpose Sports Complex – construction and equipping of a new multipurpose sports complex on the island of St. Croix	23,000,000
St. John Elementary and Middle School – acquisition of land, construction and equipping of a new elementary and middle school on the island of St. John	32,000,000
VITEMA – construction and equipping of a new administrative building on the island of St. Croix for VITEMA/911	18,000,000

Sub-Total	<u>\$249,000,000</u>	<u>\$147,000,000</u>
Grand Total		<u>\$396,000,000</u>

(B) If for any reason, including federal income tax purposes or other legal considerations, the Authority is unable to finance any Series 2016 Capital Project as authorized in Section 2(A) above, the authorization to finance the remainder of the Series 2016 Capital Projects in this Section shall not be affected thereby and the Governor, on behalf of the Government, is authorized to finance such other capital infrastructure improvements from unexpended proceeds for projects he shall deem appropriate.

SECTION 3. Interest Rate and Term.

Neither the Series 2016 Gross Receipts Taxes Bonds, the Series 2016 Matching Fund Revenue Bonds, the Series 2016 Gross Receipts Taxes Loan Notes nor the Series 2016 Matching Fund Revenue Loan Notes shall bear interest at a rate in excess of nine and one-half percent (9½%) per annum on any federally tax-exempt or federally taxable bonds. The respective terms of the Series 2016 Gross Receipts Taxes Bonds, the Series 2016 Matching Fund Revenue Bonds, the Series 2016 Gross Receipts Taxes Loan Notes or the Series 2016 Matching Fund Loan Notes shall not exceed thirty (30) years from the date of issuance thereof.

SECTION 4. Acquisition of Real Property for St. John Elementary and Middle School.

Pursuant to the provisions of 31 V.I.C. 231a(c), the Department of Property and Procurement, on behalf of the Government of the Virgin Islands, is hereby authorized to negotiate, and is hereby directed to acquire through purchase, the St. John Real Property as the site for the construction of the St. John Elementary and Middle School consisting, more or less, of 13.375 acres.

SECTION 5. Effective Date.

This Act shall take effect immediately upon approval thereof by the Governor.

BILL SUMMARY

Section 1 of the bill authorizes the issuance of bonds of the Government of the Virgin Islands and/or the Virgin Islands Public Finance Authority to (A) finance all or a portion of the costs of certain capital projects and operating expenses of the Government listed in Section 2 of the bill (described below in an amount not to exceed \$396,000,000, together with the principal amount of Bonds, after giving effect to any original issue discount or original issue premium, to finance any necessary reserves, costs of issuance and capitalized interest, if any, allocable to the Series 2016 Capital Projects and interest allocable to the Series 2016 Working Capital Project for fiscal years 2017 through 2021), secured by Matching Fund Revenues and/or Gross Receipts Taxes, (B) fund any necessary reserves in connection with the Series 2016 Bonds, (C) pay the costs of issuance of the Series 2016 Bonds and (D) fund capitalized interest allocable to the Series 2016 Capital Projects, if any, and interest allocable to the Series 2016 Working Capital Project for fiscal years 2017 through 2021. The bill authorizes the bonds to be secured by either Matching Fund Revenues or Gross Receipts Taxes; Section 1 of the bill creates and imposes certain statutory liens that arise solely by force of this bill to secure all Gross Receipts Taxes Bonds, Matching Fund Revenue Bonds, Diageo Subordinated Matching Fund Revenue Bonds and Cruzan Subordinated Matching Fund Revenue Bonds.

Section 2 of the bill authorizes the capital projects and operating expenses of the Government to be financed from the proceeds of the Series 2016 Bonds. Section 2 of the bill also creates and imposes certain statutory liens that do and shall arise solely by force of this Act.

Section 3 of the bill provides that the Series 2016 Bonds shall bear interest at a rate not to exceed [nine and one-half percent (9½%)] per annum on a federally tax-exempt or federally taxable basis and have a maximum maturity not to exceed thirty (30) years.

Section 4 of the bill provides that the Department of Property and Procurement, on behalf of the Government of the Virgin Islands, is hereby authorized to negotiate, and is hereby directed to acquire through purchase, the St. John Real Property as the site for the construction of the St. John Elementary and Middle School.